



National Health Service Act 1977

1977 CHAPTER 49

PART IV

PROPERTY AND FINANCE

Land and other Property

87 Acquisition, use and maintenance of property.

- (1) The Secretary of State may acquire—
 - (a) any land, either by agreement or compulsorily,
 - (b) any other property,required by him for the purposes of this Act; and (without prejudice to the generality of paragraph (a) above) land may be so acquired to provide residential accommodation for persons employed for any of those purposes.
- (2) The Secretary of State may use for the purposes of any of the functions conferred on him by this Act any property belonging to him by virtue of this Act, and he has power to maintain all such property.
- (3) 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 Secretary of State.
- [^{F1}(4) The ^{M1}Acquisition of Land Act 1981 shall apply to the compulsory purchase of land under this section]
- (5) Section 120(3) of the ^{M2}Local Government Act 1972 (which relates to the application of Part I of the ^{M3}Compulsory Purchase Act 1965 where a council are authorised to acquire land by agreement) applies to the acquisition of land by the Secretary of State under this section in like manner as it applies to such acquisition by a council under that section.
- [^{F2}(6) Sections 238 and 239 of the Town and Country Planning Act 1990 (use and development of consecrated land and burial grounds) shall apply to consecrated land

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or, as the case may be, land comprised in a burial ground (within the meaning of section 240 of that Act) which—

- (a) the Secretary of State holds 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 the Secretary of State,

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

Textual Amendments

- F1** S. 87(4) substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34(1), **Sch. 4 para. 28**
- F2** S. 87(6) substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 40**

Modifications etc. (not altering text)

- C1** S. 87(1)(2): transfer of functions (E.) (1.4.2001) by [S.I. 2001/747](#), regs. 2(1), 3, 4, **Sch. 1**

Marginal Citations

- M1** [1981 c. 67\(28:1\)](#).
- M2** [1972 c. 70\(81:1\)](#).
- M3** [1965 c. 56\(28:1\)](#).

88 Transferred property free of trusts.

- (1) All property vested in the Secretary of State in consequence of the transfer of that property under section 6 of the ^{M4}National Health Service Act 1946 (transfer of hospitals) [^{F3}is so vested] free of any trust existing immediately before that transfer.
- (2) The Secretary of State may use any such property for the purpose of any of his functions under this Act, but he shall so far as practicable secure that the objects for which any such property was used immediately before that transfer are not prejudiced by [^{F3}the exercise of the power hereby conferred].

Textual Amendments

- F3** Words substituted by [Health Services Act 1980 \(c. 53, SIF 113:2\)](#), **Sch. 1, para. 66**

Marginal Citations

- M4** [1946 c. 81](#).

89 Power of voluntary organisations to transfer property.

- (1) Notwithstanding anything contained—
 - (a) in the constitution or rules of any voluntary organisation formed for the purpose of providing a service of nurses for attendance on the sick in their own homes, or of midwives, or
 - (b) in any trust deed or other instrument relating to such organisation or service, any property vested in the organisation or held by any persons on trust for the organisation or service or for any specific purposes connected with the organisation or service may be transferred to the Secretary of State, on such terms as may be agreed between him and the organisation or trustees, with a view to the property being used

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or held by him for purposes similar to the purposes for which it was previously used or held.

Trusts

90 Gifts on trust.

—A health authority has power to accept, hold and administer any property on trust for all or any purposes relating to the health service.

91 Private trusts for hospitals.

(1) Where—

- (a) the terms of a trust instrument authorise or require the trustees, whether immediately or in the future, to apply any part of the capital or income of the trust property for the purposes of any health service hospital, then
- (b) the trust instrument shall be construed as authorising or (as the case may be) requiring the trustees to apply the trust property to the like extent, and at the like times, for the purpose of making payments, whether of capital or income, to the appropriate hospital authority.

(2) Any sum so paid to the appropriate hospital authority shall, so far as practicable, be applied by them for the purpose specified in the trust instrument.

(3) In this section “the appropriate hospital authority” means—

- (a) where special trustees are appointed for the hospital, those trustees;
- [^{F4}(aa) where the hospital is owned and managed by an NHS trust and trustees have been appointed for the NHS trust, those trustees;
- (ab) where the hospital is owned and managed by an NHS trust and neither paragraph (a) nor paragraph (aa) above applies, the NHS trust;]
- (b) in any other case, the . . . ^{F5}[^{F6}District] Health Authority exercising functions on behalf of the Secretary of State in respect of the hospital.

(4) Nothing in this section applies to a trust for a special hospital, or to property transferred under section 24 of the ^{M5}National Health Service Reorganisation Act 1973.

Textual Amendments

- F4** S. 91(3)(aa)(bb) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 11(4)
- F5** Words repealed by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(2), Sch. 10
- F6** Words inserted by Health Services Act 1980 (c. 53, SIF 113:2), Sch. 1, para. 67

Marginal Citations

- M5** 1973 c. 32(113:2).

92 Further transfers of trust property.

(1) The Secretary of State may, having regard to any change or proposed change in the arrangements for the administration of a hospital [^{F7}or other establishment or facility]

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or in the area or functions of any health authority, by order provide for the transfer of any trust property from any health authority [^{F8}NHS trust, special trustees or trustees for an NHS trust] to any other health authority [^{F8}NHS trust, special trustees or trustees for an NHS trust].

- (2) If it appears to the Secretary of State at any time that all the functions of any special trustees should be discharged by one or more health authorities [^{F9}or NHS trusts] then, whether or not there has been any such change as is mentioned in subsection (1) above, he may by order provide for the transfer of all trust property from the special trustees to the health authority [^{F10}or NHS trust], or, in such proportions as he may specify in the order, to those health authorities [^{F9}or NHS trusts].
- (3) Before so acting the Secretary of State shall consult the health authorities [^{F9}or NHS trusts] and special trustees concerned.
- (4) Where by an order under this section, property is transferred to two or more authorities [^{F9}or NHS trusts], it shall be apportioned by them in such proportions as they may agree or as may in default of agreement be determined by the Secretary of State, and the order may provide for the way in which the property is to be apportioned.
- (5) Where property is so apportioned, the Secretary of State may by order make any consequential amendments of the trust instrument relating to the property.

[^{F11}(6) If it appears to the Secretary of State at any time that—

- (a) the functions of any special trustees should be discharged by the trustees for an NHS trust, or
- (b) the functions of the trustees for an NHS trust should be discharged by special trustees,

then, whether or not there has been any such change as is mentioned in subsection (1) above, he may, after consulting the special trustees and the trustees for the NHS trust, by order provide for the transfer of all trust property from or to the special trustees to or from the trustees for the NHS trust.]

Textual Amendments

- F7** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), **s. 11(5)(a)**
- F8** Words substituted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), **s. 11(5)(a)**
- F9** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), **s. 11(5)(b)**
- F10** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), **s. 11(5)(c)**
- F11** **S. 92(6)** added by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), **s. 11(5)(d)**

Modifications etc. (not altering text)

- C2** **S. 92** restricted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 301, **Sch. 6 para. 7(2)**

93 Trust property previously held for general hospital purposes.

- (1) This section applies—

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- (a) to property transferred under section 23 of the ^{M6}National Health Service Reorganisation Act 1973 (winding-up of hospital endowments funds), and
 - (b) to property transferred under section 24 of that Act (transfer of trust property from abolished authorities) 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 ^{M7}National Health Service Act 1946, applicable for purposes relating to hospital services or relating to some form of research, and this section continues to apply to the property after any further transfer under section 92 above.
- (2) The person holding the property after the transfer or last transfer shall 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, or Part II of that Act of 1973.

In this subsection “original endowment” means a hospital endowment which was transferred under section 7 of that Act of 1946 and from which the property in question is derived.
- (3) Subject to subsection (2) above, the property shall 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 thinks fit.
- (4) Where the person holding the property is a body of special trustees, the power conferred by subsection (3) above shall be exercised as respects the hospitals for which they are appointed.

Modifications etc. (not altering text)

C3 S. 93(1)(2) extended (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 4(1)(2), 8(1), **Sch. 2 para. 5(3)** (with **Sch. 2 para. 6**)

Marginal Citations

M6 1973 c. 32(113:2).
M7 1946 c. 81.

94 Application of trust property: further provisions.

- (1) Any discretion given by a trust instrument to the trustees of property transferred under—
 - (a) section 24 of the ^{M8}National Health Service Reorganisation Act 1973 (transfer of trust property from abolished authorities),
 - (b) section 25 of that Act (transfer of trust property held for health services by local health authorities),
 - (c) section 92 above,shall be exercisable by the person to whom the property is so transferred and, subject to section 93 above and the following provisions of this section, the transfer shall not affect the trusts on which property is held.
- (2) Where—
 - (a) property has been transferred under section 24 of that Act of 1973, and

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- (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 think fit without any restriction on the kinds of hospital services and without any restriction to one or more specified hospitals,

the discretion shall be enlarged so as to allow the application of the property or (as the case may be) of the income arising from the property, to such extent as the trustees think fit, for any other part of the health service associated with any hospital.

- (3) Subsection (2) above shall apply on any subsequent transfer of the property under section 92 above.

Modifications etc. (not altering text)

- C4 S. 94(1)(3) extended (E.W.) (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 4(1)(2), 8(1), Sch. 2 para. 5(3) (with Sch. 2 para. 6)

Marginal Citations

- M8 1973 c. 32(113:2).

95 Special trustees for a university or teaching hospital.

- (1) The bodies of trustees (in this Act referred to as special trustees) appointed by the Secretary of State under section 29 of the National Health Service Reorganisation Act 1973 [^{F12}or] this section shall (subject to section 92 above) hold and administer the property transferred to them under that Act of 1973.

The special trustees so appointed are bodies of trustees appointed for the hospital or hospitals which, immediately before the day appointed for the purposes of section 29 of that Act of 1973, were controlled and managed by a University Hospital Management Committee or a Board of Governors, but excluding—

- (a) a body on whose request an order was made under section 24(2) of that Act of 1973;
- (b) a preserved Board within the meaning of section 15(6) of that Act of 1973.
- (2) Special trustees have power to accept, hold and administer any property on trust for all or any purposes relating to hospital services (including research), or to any other part of the health service associated with hospitals, being a trust which is wholly or mainly for hospitals for which the special trustees are appointed.
- (3) The number of trustees for any hospital or hospitals shall be such as the Secretary of State may from time to time determine after consultation with such persons as he considers appropriate.
- (4) The term of office of any special trustee shall be fixed by the Secretary of State but a special trustee may be removed by the Secretary of State at any time during the special trustee's term of office.

Textual Amendments

- F12 Word substituted by Health Services Act 1980 (c. 53, SIF 113:2), Sch. 1, para. 68

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96 Trusts: supplementary provisions.

- (1) Any provision in sections 90 to 95 above for the transfer of any property includes provision for the transfer of any rights and liabilities arising from that property.

[^{F13}(1A) Where any transfer of property by virtue of those sections is of, or includes,—

- (a) land held on lease from a third party, that is to say, a person other than the Secretary of State or a health authority, or
(b) any other asset leased or hired from a third party or in which a third party has an interest,

the transfer shall be binding on the third party notwithstanding that, apart from this subsection, it would have required his consent or concurrence.]

- (2) Nothing in those sections shall affect any power of Her Majesty, the court (as defined in [^{F14}the ^{M9}Charities Act 1993]) or any other person to alter the trusts of any charity.

- (3) Nothing in section 12 of the ^{M10}Finance Act 1895 (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 sections 90 to 95 above or to an order made in pursuance of any of those sections; and stamp duty shall not be payable on such an order.

Textual Amendments

F13 S. 96(1A) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 11(6)(b)

F14 Words in s. 96(2) substituted (1.8.1993) by 1993 c. 10, ss. 98(1), 99(1), Sch. 6 para.30

Modifications etc. (not altering text)

C5 S. 96 amended by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 11(6)

Marginal Citations

M9 1993 c. 10.

M10 1895 c. 16(114).

[^{F15}96A Power of health authorities, etc. to raise money, etc., by appeals, collections, etc.

- (1) A health authority [^{F16}or NHS trust] shall have power to engage in activities intended to stimulate the giving (whether on trust or otherwise) of money or other property to assist the authority [^{F16}or NHS trust] in providing or improving any services or any facilities or accommodation which is or are or is or are to be provided as part of the health service or to assist them in connection with their functions with respect to research.
- (2) A Board of Governors of a teaching hospital shall, so long as it is a preserved Board by virtue of section 15 of the ^{M11}National Health Service Reorganisation Act 1973, have the like power in relation to services, facilities or accommodation provided or to be provided at or by the hospital or their functions with respect to research.
- (3) Subject to any directions of the Secretary of State excluding specified descriptions of activity, the activities authorised by this section include public appeals or collections and competitions, entertainments, bazaars, sales of produce or other goods and other similar activities and the activities may involve the use of land, premises or other

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property held by or for the benefit of the health ^[F17]authority, NHS trust or Board] exercising the power subject however to any restrictions on the purposes for which trust property may be used.

- (4) Subject to the following provisions of this section, the health ^[F17]authority, NHS trust or Board] at whose instance property is given in pursuance of this section shall, 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.
- (5) Where property is given in pursuance of this section 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 ^[F18]body responsible for the hospital if that body and the special trustees agree; and in this subsection the body responsible for a hospital is,—
- (a) in the case of a hospital vested in a NHS trust, that trust; and
 - (b) in any other case, the District Health Authority exercising functions on behalf of the Secretary of State in respect of the hospital]

^[F19](5A) [Where property is given in pursuance of this section on trust for any purposes of an NHS trust for which trustees have been appointed under section 11(1) of the National Health Service and Community Care Act 1990, then, if those trustees and the NHS trust agree, the property may be held, administered and applied by those trustees instead of by the NHS trust.]

- (6) Property given in pursuance of this section on trust may be transferred to another health authority ^[F20]to an NHS trust or to special trustees or trustees for an NHS trust] by order of the Secretary of State under section 92 above in the same circumstances as other trust property may be transferred under that section, and sections 94 and 96 above shall apply as they apply to other trust property transferred under the said section 92.
- (7) Where property held by a health ^[F21]authority, NHS trust or Board] under this section is more than sufficient to enable the purpose for which it was given to be fulfilled the excess shall be 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 authority or Board as the ^[F21]authority, NHS trust or Board] think fit.
- (8) Where property held by a health ^[F21]authority, NHS trust or Board] under this section is insufficient to enable the purpose for which it was given to be fulfilled then—
- (a) the ^[F21]authority, NHS trust or Board] may apply so much of the capital or income at their disposal as is needed to enable the purpose to be fulfilled subject, however, 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 Secretary of State or by a Regional Health Authority under section 97 below, to any directions he or that Authority may give; but
 - (b) where the capital or income applicable under paragraph (a) above is insufficient or is not applied to enable the purpose to be fulfilled, the property so held by the health ^[F21]authority, NHS trust or Board] shall be 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 authority or Board as the ^[F21]authority, NHS trust or Board] think fit.

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- (9) Where under subsection (7) or (8) above property becomes applicable for purposes other than that for which it was given the [^{F21}authority, NHS trust or Board] shall have regard to the desirability of applying the property for a purpose similar to that for which it was given.
- (10) In this section “special trustees” has the same meaning as in section 95 above and references to the purposes for which trust property may be used or applied are to be taken, in the case of trust property which has been transferred under section 92 above, to include references to those purposes as enlarged by section 94 above.]

Textual Amendments

- F15** S. 96A inserted by Health Services Act 1980 (c. 53, SIF 113:2), s. 5(1)
- F16** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 5(8), Sch. 2 para. 23(1)
- F17** Words substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 5(8), Sch. 2 para. 23(2)
- F18** Words and subsections (a)(b) substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 5(8), Sch. 2 para. 23(3)
- F19** S. 96A(5A) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 5(8), Sch. 2 para. 23(4)
- F20** Words substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 5(8), Sch. 2 para. 23(5)
- F21** Words substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 5(8), Sch. 2 para. 23(2)

Marginal Citations

- M11** 1973 c. 32(113:2).

VALID FROM 04/01/2000

[^{F22}96B Trust-funds and trustees for Primary Care Trusts.

- (1) The Secretary of State may by order provide for the appointment of trustees for any Primary Care Trust.
- (2) Trustees for a Primary Care Trust may accept, hold and administer any property on trust—
- (a) for the general or any specific purposes of the Primary Care Trust (including the purposes of any specific hospital or other establishment or facility which is managed by the trust), or
 - (b) for all or any purposes relating to the health service.
- (3) An order under subsection (1) above may—
- (a) make provision as to the persons by whom trustees are to be appointed and generally as to the method of their appointment,
 - (b) provide for any appointment to be subject to any conditions specified in the order (including conditions requiring the consent of the Secretary of State),
 - (c) make provision as to the number of trustees to be appointed, including provision under which that number may from time to time be determined

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by the Secretary of State after consultation with any persons he considers appropriate, and

(d) make provision about the term of office of any trustee and his removal from office.

(4) Where trustees have been appointed for a Primary Care Trust under subsection (1) above, the Secretary of State may by order provide for the transfer of any trust property from the Primary Care Trust to the trustees so appointed.]

Textual Amendments

F22 S. 96B inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 7, 67; S.I. 1999/2342, art. 2(3), Sch. 2

VALID FROM 01/08/2001

[^{F23} Companies

Textual Amendments

F23 S. 96C and cross-heading inserted (1.8.2001 for E. and otherwise *prosp.*) by 2001 c. 15, ss. 4, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/2804 art. 2(1)(a)

[^{F24} **96C** Public-private partnerships

(1) The Secretary of State may form, or participate in forming, companies to provide facilities or services for—

- (a) persons or bodies exercising functions, or otherwise providing services, under this Act; or
- (b) NHS trusts.

(2) The Secretary of State may, with a view to securing or facilitating the provision by companies of facilities or services for persons or bodies falling within subsection (1) (a) or (b)—

- (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) above 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)(a) or (b); or
- (b) to persons or bodies falling within subsection (1)(a) only in their capacities as persons or bodies such as are mentioned in that provision.

(4) In this section—

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“companies” means companies within the meaning of the Companies Act 1985 (c. 6);

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

(5) This section is without prejudice to any powers of the Secretary of State exercisable otherwise than by virtue of this section.]]

Textual Amendments

F24 S. 96C inserted (1.8.2001 for E. and otherwise *prosp.*) by 2001 c. 15, ss. 4, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/2804 art. 2(1)(a)

Finance and Accounts

[^{F25}97 Means of meeting expenditure of health authorities out of public funds.

(1) It is the Secretary of State’s duty to pay in respect of each financial year—

(a) to each Regional Health Authority or, in Wales, to each Area Health Authority and each District Health Authority sums not exceeding the amount allotted . . .
^{F26} by him to the Authority for that year towards meeting the expenditure attributable to the performance by the Authority of their functions in that year [^{F27}including, in the case of a Regional Health Authority, its functions with respect to such expenditure of Family Health Services Authorities in relation to which it is the relevant Regional Health Authority as—

(i) is attributable to the reimbursement of expenses of persons providing services in pursuance of Part II of this Act and is of a description specified in the allotment, and

(ii) is attributable to the performance by the Family Health Services Authority of their functions in that year];

[^{F28}(aa) to each Regional Health Authority sums equal to any such expenditure of Family Health Services Authorities in relation to which it is the relevant Regional Health Authority as is attributable to the remuneration of persons providing services in pursuance of Part II of this Act and is not of a description specified as mentioned in paragraph (a) above]

[^{F29}(b) to each [^{F30}Family Practitioner Committee][^{F30}Family Health Services Authority whose locality is in Wales]—

(i) sums not exceeding the amount allotted by him to the Committee for that year towards meeting the expenditure attributable to the performance by the Committee of their functions in that year;]

[for any kind of expenditure attributable to reimbursement of expenses
^{F31}(ii) of persons providing services in pursuance of Part II of this Act for which he allots an amount to the Committee, an amount not exceeding the amount so allotted;

(iii) for any other expenditure attributable to remuneration of persons providing such services, sums equal to that expenditure;]

(c) to each special health authority sums not exceeding the amount allotted . . .
^{F26} by him to the authority for that year towards meeting the expenditure

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attributable to the performance by the authority in that year of their functions under this Act.

- (2) Subject to subsection (3) below, it is the duty of every Regional Health Authority to pay in respect of each financial year [^{F32}to each Area Health Authority and each District Health Authority whose area or district is included in the region sums not exceeding the amount allotted . . . ^{F26} by the Regional Health Authority to the Area or District Health Authority for that year towards meeting the expenditure attributable to the performance by the Authority of their functions in that year.]

[^{F32}(a) to each District Health Authority whose district is included in the region sums not exceeding the amount allotted by the Regional Health Authority to the District Health Authority for that year towards meeting the expenditure attributable to the performance by the District Health Authority of their functions in that year; and

(b) to each Family Health Services Authority in relation to which it is the relevant Regional Health Authority—

(i) sums equal to the expenditure referred to in subsection (1)(aa) above; and

(ii) sums not exceeding the amount allotted by the Regional Health Authority to the Family Health Services Authority for that year towards meeting other expenditure attributable to the reimbursement of expenses of persons providing services in pursuance of Part II of this Act and to the performance by the Family Health Services Authority of their functions in that year.]

[^{F33}(2A) The date on which an allotment to an authority under subsection (1) or (2) above (including an allotment increasing or reducing an allotment previously made) takes effect is the date on which the authority are notified of its amount by the Secretary of State or, as the case may be, the Regional Health Authority.]

[The Secretary of State may give directions

^{F34}(3) [^{F35}(a) to a Regional [^{F36}or Special] Health Authority or Family [^{F37}Practitioner Committee][^{F37}Health Services Authority whose locality is in Wales] or to a District Health Authority whose district is in Wales with respect to the application of sums paid to them under subsection (1) above [^{F38}and

(b) to a District Health Authority in England with respect to the payment of sums by them to the Regional Health Authority in respect of charges or other sums referable to the valuation or disposal of assets; and

(c) to a Regional Health Authority with respect to the application of sums received by them by virtue of paragraph (b) above or by virtue of section 15(7) (a) of the National Health Service and Community Care Act 1990.]]

- (4) Where directions have been given under subsection (3) above to a Regional Health Authority with respect to the application of the sums paid to the Authority under subsection (1) above, the Regional Health Authority may give directions to [^{F39}an Area Health Authority or District Health Authority whose area or district is in the region with respect to the application of any sums paid out of those sums to the Area Health Authority or District Health Authority under subsection (2) above][^{F39}a District Health Authority whose district is included in the region or a Family Health Services Authority in relation to which it is the relevant Regional Health Authority with respect to the application of any sum paid out of those sums to the District Health Authority or the Family Health Services Authority under subsection (2) above].

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- (5) It shall be the duty of any health authority [^{F40}or Family Practitioner Committee] to whom directions have been given under subsection (3) or (4) above to comply with the directions.
- (6) Where an order establishing a special health authority provides for any expenditure of the authority to be met by a Regional, . . . ^{F41} or District Health Authority or by two or more such Authorities in portions determined by or in accordance with the order, it is the duty of each Authority in question to pay to the special health authority sums equal to, or to the appropriate portion of, that expenditure.
- (7) Sums falling to be paid under this section shall be payable subject to compliance with such conditions as to records, certificates or otherwise as the Secretary of State may determine.]

Textual Amendments

- F25** Ss. 97, 97A substituted for s. 97 by Health Services Act 1980 (c. 53, SIF 113:2), s. 6(1)(5) in relation to the financial year 1980 to 1981 and subsequent years
- F26** Words repealed by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 24, Sch. 8 Pt. I
- F27** Words added (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 19(2)(a)
- F28** S. 97(1)(aa) inserted (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 19(2)(b)
- F29** S. 97(1)(b) substituted by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 5(4), Sch. 3 para. 9(a)
- F30** Words inserted (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 19(2)(c)
- F31** S. 97(1)(b)(ii)(iii) substituted for subsection (1)(b)(ii) by Health and Medicines Act 1988 (c. 49, SIF 113:2), s. 16(1)
- F32** S. 97(2)(a)(b) substituted (1.4.1991) for the words following “each financial year” by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 19(3)
- F33** S. 97(2A) inserted by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 6(1)
- F34** S. 97(3) substituted by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 5(4), Sch. 3 para. 9(b)
- F35** “(a)” inserted (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 19(4)(a)
- F36** Words inserted (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 19(4)(b)
- F37** Words commencing “Health Services Authority” substituted (1.4.1991) for the words “Practitioner Committee” by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 19(4)(b)
- F38** S. 97(3)(b)(c) and the word “and” immediately preceding (b) added (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 19(4)(c)
- F39** Words commencing “a District Health Authority whose” ending “(2) above” substituted (1.4.1991) for words commencing “an Area Health Authority” onwards by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 19(5)
- F40** Words inserted by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 5(4), Sch. 3 para. 9(c)
- F41** Word repealed by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(2), Sch. 10

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97A Financial duties of health authorities.

- (1) It is the duty of every Regional Health Authority, in respect of each financial year, so to perform their functions as to secure that [^{F42}the expenditure attributable to the performance by the Regional Health Authority and the Area Health Authorities and District Health Authorities whose areas or districts are in the region of their functions in that year does not exceed the aggregate of—
- (a) the amounts allotted to the Regional Health Authority for that year under section 97(1) above;
 - (b) any other sums received under this Act in that year by the Regional Health Authority or the Area Health Authorities or District Health Authorities whose areas or districts are in the region;
 - (c) any sums received otherwise than under this Act in that year by any of those Authorities for the purpose of enabling the Authority to defray any such expenditure.]
- [^{F42}(a) the expenditure attributable to the performance by the Regional Health Authority of its functions in that year, and
- (b) the expenditure attributable to the performance by the District Health Authorities whose districts are in the region of their functions in that year, and
 - (c) the expenditure attributable to the performance by each Family Health Services Authority in relation to which the Regional Health Authority is the relevant Regional Health Authority of the Family Health Services Authority's functions in that year, other than expenditure falling within section 97(1)(aa) above,
- does not exceed the aggregate of—
- (i) the amounts allotted to the Regional Health Authority for that year under section 97(1)(a) above;
 - (ii) any other sums received under this Act, other than under section 97(1)(aa) above, in that year by the Regional Health Authority or by the District Health Authorities or Family Health Services Authorities concerned; and
 - (iii) any sums received otherwise than under this Act in that year by any of those Authorities for the purpose of enabling them to defray any such expenditure.]
- (2) It is the duty of every [^{F43}Area Health Authority and every District Health Authority][^{F43}District Health Authority and every Family Health Services Authority], in respect of each financial year, so to perform their functions as to secure that the expenditure attributable to the performance of their functions in that year does not exceed the aggregate of—
- (a) the amounts allotted to the Authority for that year under section 97(1) or (2) above [^{F44}other than section 97(1)(aa)];
 - (b) any other sums received by the Authority under this Act in that year; and
 - (c) any sum received otherwise than under this Act in that year by the Authority for the purpose of enabling the Authority to defray any such expenditure.
- (3) It is the duty of every special health authority, in respect of each financial year, so to perform their functions under this Act as to secure that the expenditure attributable to the performance of their functions in that year does not exceed the aggregate of—
- (a) the amount allotted to the authority for that year under section 97(1) above;
 - (b) any other sums received by the Authority under this Act in that year; and
 - (c) any sums received otherwise than under this Act in that year by the authority for the purpose of enabling the authority to defray any such expenditure.

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- (4) The Secretary of State may give such directions to a health authority [^{F45}or Family Health Services Authority] as appear to him to be requisite to secure that the authority comply with the duty imposed on them by subsection (1), (2) or (3) above and it shall be the duty of the authority to comply with the directions.

Directions under this subsection may be specific in character.

- (5) To the extent to which—
- (a) any expenditure is defrayed by a health authority as trustee or on a health authority's behalf by special trustees; or
 - (b) any sums are received by a health authority as trustee or under section 96A above,

that expenditure and, subject to subsection (6) below, those sums shall be disregarded for the purposes of this section and, for those purposes, sums which, in the hands of an authority, cease to be trust funds and become applicable by the authority otherwise than as trustee shall be treated, on their becoming so applicable, as having been received by the authority otherwise than as trustee.

- (6) Of the sums received by a health authority under section 96A above so much only as accrues to the authority after defraying any expenses incurred in obtaining them shall be disregarded under subsection (5) above.
- (7) Subject to subsection (5) above, the Secretary of State may, by directions, determine—
- (a) whether sums of a description specified in the directions are or are not to be treated for the purposes of this section as being receivable under this Act by an authority of a description so specified;
 - (b) whether expenditure of a description specified in the directions is or is not to be treated for the purposes of this section as being attributable to the performance of functions by an authority of a description so specified; or
 - (c) the extent to which and the circumstances in which sums received but not yet spent by an authority under section 97(1) or (2) above are to be treated for the purposes of this section as part of the expenditure of the authority and to which financial year's expenditure they are to be attributed.

Textual Amendments

- F42** S. 97A(1)(a)(b)(c) substituted (1.4.1991) for words by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 13\(2\)](#)
- F43** Words commencing “Area Health Authority” substituted (1.4.1991) for words commencing “District Health Authority” by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 13\(3\)\(a\)](#)
- F44** Words inserted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 13\(3\)\(b\)](#)
- F45** Words inserted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 13\(4\)](#)

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VALID FROM 22/12/2000

[^{F46}97A Resource limits for Health Authorities and Special Health Authorities.

- (1) It is the duty of every Health Authority and every Special Health Authority to ensure that the use of their resources in a financial year does not exceed the amount specified for them in relation to that year by the Secretary of State.
- (2) In the application of subsection (1) above to a Health Authority no account shall be taken of any use of resources for the purpose of general Part II expenditure (within the meaning of paragraph 1 of Schedule 12A).
- (3) For the purpose of subsection (1) above the Secretary of State may give directions—
 - (a) specifying uses of resources which are to be, or not to be, taken into account;
 - (b) making provision for determining to which Health Authority or Special Health Authority certain uses of resources are to be attributed;
 - (c) specifying descriptions of resources which are to be, or not to be, taken into account.
- (4) Subsections (6) to (8) of section 97A above shall apply in relation to the duty under subsection (1) above as they apply in relation to the duties under section 97A(1) and (2); and for that purpose references to the defraying of expenditure and the receipt of sums shall be construed as references to the incurring of liabilities and the acquisition of assets.
- (5) The provisions in section 97A(3) and (4) above about the giving of directions by the Secretary of State shall apply in relation to the duty under subsection (1) above as they apply in relation to the duties under section 97A(1) and (2).
- (6) Where the Secretary of State has specified an amount under this section in respect of a financial year, he may vary the amount by a later specification.
- (7) In this section a reference to the use of resources is a reference to their expenditure, consumption or reduction in value.]

Textual Amendments

F46 S. 97AA inserted (22.12.2000 for E. for specified purposes, 1.4.2001 for other specified purposes and otherwise *prosp*) by 2000 c. 20, ss. 12(1), 30; S.I. 2000/3349, arts. 2(c), 3(1)(a), 4 (with transitional provisions in art. 5)

Modifications etc. (not altering text)

C6 S. 97AA amended (W.) (*prosp.*) by 2000 c. 20, ss. 12(2), 30

[^{F47}97B Financial duties of Family Practitioner Committees.

- (1) It is the duty of every [^{F48}Family Practitioner Committee][^{F48}Family Health Services Authority whose locality is in Wales], in respect of each financial year, so to perform their functions as to secure that the expenditure attributable to the performance of those functions in that year, other than expenditure [^{F49}such as is mentioned in section 97(1)(b)(iii) above], does not exceed the aggregate of—

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- (a) the amounts allotted to the Committee for that year under section 97(1) above;
 - (b) any other sums received by the Committee under this Act in that year; and
 - (c) any sums received otherwise than under this Act in that year by the Committee for the purpose of enabling the Committee to defray any such expenditure
- [^{F50} and any reference in subsections (2) and (4) below to a Family Health Services Authority is a reference to an Authority whose locality is in Wales].
- (2) The Secretary of State may give such directions to a Family Practitioner Committee as appear to him to be requisite to secure that the Committee comply with the duty imposed on them by subsection (1) above and it shall be the duty of the Committee to comply with the direction.
- (3) Directions under subsection (2) above may be specific in character.
- (4) The Secretary of State may, by directions, determine—
 - (a) whether sums of a description specified in the directions are or are not to be treated for the purposes of this section as being receivable under this Act by a Family Practitioner Committee for the purpose of their functions;
 - (b) whether expenditure of a description specified in the directions is or is not to be treated for the purposes of this section as being attributable to a Family Practitioner Committee's performance of their functions; or
 - (c) the extent to which and the circumstances in which sums received but not yet spent by a Family Practitioner Committee under section 97(1) above are to be treated for the purposes of this section as part of the expenditure of the Committee attributable to the performance of their functions and to which financial year's expenditure in the performance of such functions they are to be attributed.]

Textual Amendments

- F47** S. 97B inserted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 5(4), **Sch. 3 para. 10**
- F48** Words commencing "Family Health Services" substituted (1.4.1991) for the words "Family Practitioner Committee" by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 13(5)(a)
- F49** Words substituted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), s. 16(2)
- F50** Words added (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 13(5)(b)

VALID FROM 01/04/2000

[^{F51}97C Public funding of Primary Care Trusts.

- (1) It is the duty of every Health Authority, in respect of each financial year, to pay to each Primary Care Trust whose area falls within their area—
 - (a) sums equal to the trust's general Part II expenditure, and
 - (b) sums not exceeding the amount allotted by the authority to the trust for that year towards meeting the trust's main expenditure in that year.
- (2) Any payment under subsection (1)(a) above shall be made out of money paid to the Health Authority under subsection (1) of section 97 above and any payment under

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subsection (1)(b) above shall be made out of money paid to the authority under subsection (3) of that section.

- (3) An amount is allotted to a Primary Care Trust for a year under this section when the trust is notified by the Health Authority that the amount is allotted to it for that year; and the Health Authority may make an allotment under this section increasing or reducing an allotment previously so made.
- (4) The Secretary of State may give directions to a Primary Care Trust about the payment of sums by the trust to the Health Authority in whose area the area of the trust falls in respect of charges or other sums referable to the valuation or disposal of assets.
- (5) Where any part of a sum paid to a Primary Care Trust by a Health Authority under subsection (1) above derives from a sum which was paid to the authority under subsection (1) or (3) of section 97 above subject to a direction (under subsection (6) (a) of that section) that it be applied for a particular purpose, the authority shall direct the trust that the sum paid to the trust shall be applied for the same purpose.
- (6) Sums falling to be paid to Primary Care Trusts under this section shall be payable subject to compliance with such conditions as to records, certificates or otherwise as the Secretary of State may determine.]

Textual Amendments

- F51** S. 97C inserted (1.4.2000 for E. for the purposes of the financial year 2000-2001 and subsequent financial years and otherwise *prosp.*) by 1999 c. 8, ss. 3, 67; S.I. 1999/2342, art. 2(4), **Sch. 3**

VALID FROM 01/04/2000

F52 97D Financial duties of Primary Care Trusts.

- (1) It is the duty of every Primary Care Trust, in respect of each financial year, to perform its functions so as to secure that the expenditure of the trust which is attributable to the performance by the trust of its functions in that year (not including expenditure within subsection (1)(a) of section 97C above) does not exceed the aggregate of—
 - (a) the amount allotted to it for that year under subsection (1)(b) of that section,
 - (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 Secretary of State may give such directions to a Primary Care Trust as appear to be requisite to secure that the trust complies with the duty imposed on it by subsection (1) above.
- (3) Directions under subsection (2) above may be specific in character.
- (4) To the extent to which—
 - (a) any expenditure is defrayed by a Primary Care Trust as trustee or on behalf of a Primary Care Trust by special trustees, or
 - (b) any sums are received by a Primary Care Trust as trustee or under section 96A above,

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that expenditure and, subject to subsection (6) below, those sums shall be disregarded for the purposes of this section.

- (5) For the purposes of this section sums which, in the hands of a Primary Care Trust, cease to be trust funds and become applicable by the Primary Care Trust otherwise than as trustee shall be treated, on their becoming so applicable, as having been received by the Primary Care Trust otherwise than as trustee.
- (6) Of the sums received by a Primary Care Trust under section 96A above so much only as accrues to the Primary Care Trust after defraying any expenses incurred in obtaining them shall be disregarded under subsection (4) above.
- (7) Subject to subsection (4) above, the Secretary of State may by directions determine—
 - (a) whether specified sums are, or are not, to be treated for the purposes of this section as received under this Act by a specified Primary Care Trust,
 - (b) whether specified expenditure is, or is not, to be treated for those purposes as expenditure within subsection (1) above of a specified Primary Care Trust, or
 - (c) the extent to which, and the circumstances in which, sums received by a Primary Care Trust under section 97C above but not yet spent are to be treated for the purposes of this section as part of the expenditure of the Primary Care Trust and to which financial year's expenditure they are to be attributed.
- (8) In subsection (7) above, “specified” means of a description specified in the directions.

Textual Amendments

F52 s. 97D inserted (1.4.2000 for E. for the purposes of the financial year 2000-2001 and subsequent financial years and otherwise *prosp.*) by 1999 c. 8, ss. 3, 67; S.I. 1999/2342, art. 2(4), Sch. 3

VALID FROM 22/12/2000

[^{F53}97E Resource limits for Primary Care Trusts.

- (1) It is the duty of every Primary Care Trust to ensure that the use of their resources in a financial year does not exceed the amount specified for them in relation to that year by the Health Authority for the trust's area.
- (2) For the purpose of subsection (1) above no account shall be taken of any use of resources for the purpose of a trust's general Part II expenditure (within the meaning of paragraph 4 of Schedule 12A).
- (3) For the purpose of subsection (1) above the Secretary of State may give directions—
 - (a) specifying uses of resources which are to be, or not to be, taken into account;
 - (b) making provision for determining to which Primary Care Trust certain uses of resources are to be attributed;
 - (c) specifying descriptions of resources which are to be, or not to be, taken into account.

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- (4) Where an amount has been specified under this section in respect of a financial year, it may be varied by a later specification.
- (5) Subsections (4) to (6) of section 97D above shall apply in relation to the duty under subsection (1) above as they apply in relation to the duty under section 97D(1); and for that purpose references to the defraying of expenditure and the receipt of sums shall be construed as references to the incurring of liabilities and the acquisition of assets.
- (6) The provisions in section 97D(2) and (3) above about the giving of directions by the Secretary of State shall apply in relation to the duty under subsection (1) above as they apply in relation to the duty under section 97D(1).
- (7) In this section a reference to the use of resources is a reference to their expenditure, consumption or reduction in value.]

Textual Amendments

F53 S. 97E inserted (22.12.2000 for E. for specified purposes, 1.4.2001 for other specified purposes and otherwise *prosp.*) by 2000 c. 20, ss. 13(1), 30; S.I. 2000/3349, arts. 2(c), 3(1)(a), 4 (with transitional provisions in art. 5)

Modifications etc. (not altering text)

C7 S. 97E amended (W.) (22.12.2000 for E. for specified purposes, 1.4.2001 for other specified purposes and otherwise *prosp.*) by 2000 c. 20, ss. 13(1), 30; S.I. 2000/3349, arts. 2(c), 3(1)(a), 4 (with transitional provisions in art. 5)

VALID FROM 10/10/2002

^{F54} 97F Public funding of Local Health Boards

- (1) It is the duty of the National Assembly for Wales, in respect of each financial year, to pay to each Local Health Board—
 - (a) sums equal to their general Part 2 expenditure; and
 - (b) sums not exceeding the amount allotted by the National Assembly for Wales to the Local Health Board for that year towards meeting the 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) above (or in varying the amount under subsection (7) below), the National Assembly for Wales may take into account, in whatever way the Assembly thinks appropriate—
 - (a) the Board's general Part 2 expenditure; and
 - (b) expenditure which would have been the Board's general Part 2 expenditure but for an order under section 103(1) below,
 during any period the Assembly thinks appropriate (or such elements of that expenditure as it thinks appropriate).
- (3) Where the National Assembly for Wales has made an initial determination of the amount ("the initial amount") to be allotted for any year to a Local Health Board

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under subsection (1)(b) above, the Assembly may increase the initial amount by a further sum if it appears to it that over a period notified to the Board—

- (a) the Board 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) In subsection (3) above, “notified” means specified or referred to in a notice given to the Local Health Board by the National Assembly for Wales.
- (5) In making any increase under subsection (3) above, the National Assembly for Wales may (whether by directions under subsection (8) below or otherwise) impose any conditions it thinks fit on the application or retention by the Local Health Board of the sum in question.
- (6) Where the National Assembly for Wales has, under subsection (3) above, increased by any sum the amount to be allotted for any year to a Local Health Board and notified the Board of the allotment and it subsequently appears to the Assembly that the Board has failed (wholly or in part) to satisfy any conditions imposed in making that increase, the Assembly may—
- (a) reduce the allotment made to the Board for that year; or
 - (b) when the Assembly has made an initial determination of the amount (“the initial amount”) to be allotted for any subsequent year to the Board under subsection (1)(b) above, reduce the initial amount,

by any amount not exceeding that sum.

(7) An amount is allotted to a Local Health Board for a year under this section when the Board is notified by the National Assembly for Wales that the amount is allotted to the Board for that year; and the National Assembly for Wales may make an allotment under this section increasing or reducing (subject to subsection (6) above) an allotment previously so made, and the reference to a determination in subsection (3) above includes a determination made with a view to increasing or reducing an allotment previously so made.

(8) The National Assembly for Wales may give directions to a Local Health Board with respect to—

 - (a) the application of sums paid to the Board under this section, or
 - (b) the payment of sums by the Board to the National Assembly for Wales in respect of charges or other sums referable to the valuation or disposal of assets.

(9) Sums falling to be paid to Local Health Boards under this section shall be payable subject to compliance with such conditions as to records, certificates or otherwise as the National Assembly for Wales may determine.

Textual Amendments

F54 Ss. 97F-97H inserted (10.10.2002 for W.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 9, 42(3); S.I. 2002/2532, art. 2, Sch.

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VALID FROM 10/10/2002

97G Financial duties of Local Health Boards

- (1) It is the duty of every Local Health Board, in respect of each financial year, to perform its functions so as to secure that the expenditure of the Board which is attributable to the performance by the Board of its functions in that year (not including expenditure within subsection (1)(a) of section 97F above) does not exceed the aggregate of—
 - (a) the amount allotted to it for that year under subsection (1)(b) of that section;
 - (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 National Assembly for Wales may give such directions to a Local Health Board as appear to be requisite to secure that the Board complies with the duty imposed on it by subsection (1) above.
- (3) Directions under subsection (2) may be specific in character.
- (4) 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 96A above,
 that expenditure and, subject to subsection (6) below, those sums shall be disregarded for the purposes of this section.
- (5) 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 than as trustee shall be treated, on their becoming so applicable, as having been received by the Local Health Board otherwise than as trustee.
- (6) Of the sums received by a Local Health Board under section 96A above so much only as accrues to the Local Health Board after defraying any expenses incurred in obtaining them shall be disregarded under subsection (4) above.
- (7) Subject to subsection (4) above, the National Assembly for Wales may by directions determine—
 - (a) whether specified sums are, or are not, to be treated for the purposes of this section as received under this Act by a specified Local Health Board;
 - (b) whether specified expenditure is, or is not, to be treated for those purposes as expenditure within subsection (1) above 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 97F above but not yet spent are to 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 are to be attributed.
- (8) In subsection (7) above, “specified” means of a description specified in the directions.

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Textual Amendments

F54 Ss. 97F-97H inserted (10.10.2002 for W.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 9, 42(3); S.I. 2002/2532, art. 2, Sch.

VALID FROM 10/10/2002

97H Resource limits for Local Health Boards

- (1) It is the duty of every Local Health Board to 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 National Assembly for Wales.
- (2) For the purpose of subsection (1) above no account shall be taken of any use of resources for the purposes of a Board's general Part 2 expenditure (within the meaning of paragraph 6A of Schedule 12A).
- (3) But in specifying an amount for a Local Health Board under subsection (1) above (or in varying the amount under subsection (5) below), the National Assembly for Wales may take into account (in whatever way it thinks appropriate)—
 - (a) any such use of resources; and
 - (b) the use of any resources which would have been for the purpose of the Board's general Part 2 expenditure but for an order under section 103(1) below,during any period the Assembly thinks appropriate (or such elements of such uses of resources as it thinks appropriate).
- (4) For the purpose of subsection (1) above the National Assembly for Wales may give directions—
 - (a) specifying uses of resources which are to be, or not to be, taken into account;
 - (b) making provision for determining to which Local Health Board certain uses of resources are to be attributed;
 - (c) specifying descriptions of resources which are to be, or not to be, taken into account.
- (5) Where an amount has been specified under this section in respect of a financial year, it may be varied by a later specification.
- (6) Subsections (4) to (6) of section 97G above shall apply in relation to the duty under subsection (1) above as they apply in relation to the duty under section 97G(1); and for that purpose references to the defraying of expenditure and the receipt of sums shall be construed as references to the incurring of liabilities and the acquisition of assets.
- (7) The provisions in section 97G(2) and (3) above about the giving of directions by the National Assembly for Wales shall apply in relation to the duty under subsection (1) above as they apply in relation to the duty under section 97G(1).
- (8) 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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Textual Amendments
F54 Ss. 97F-97H inserted (10.10.2002 for W.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 9, 42(3); S.I. 2002/2532, art. 2, Sch.

98 Accounts and audit.

(1) Accounts, in such form as the Secretary of State may with the approval of the Treasury direct, shall be kept by—

- (a) every Regional Health Authority;
- (b)^{F55}

[^{F56}(bb) every District Health Authority;]

[^{F57}(bbb) every NHS trust]

- (c) every special health authority;

[^{F58}(cc) every Family Practitioner Committee;]

- (d) all special trustees appointed in pursuance of section 29(1) of the National Health Service Reorganisation Act 1973 and section 95(1) above;

[^{F59}(dd) any trustees for an NHS trust appointed in pursuance of section 11 of the National Health Service and Community Care Act 1990; and]

- (e) the Dental Estimates Board

Those accounts shall be audited by auditors [^{F60}appointed by the Audit Commission for Local Authorities and the National Health Service in England and Wales and the Comptroller] and Auditor General may examine all such accounts and any records relating to them, and any report of the auditor on them.

(2) Every such body shall prepare and transmit to the Secretary of State in respect of each financial year annual accounts in such form as the Secretary of State may with the approval of the Treasury direct.

.....^{F61}

[^{F62}(2A) The accounts prepared and transmitted by a District Health Authority in pursuance of subsection (2) above shall include annual accounts of a Community Health Council if—

- (a) the Council is established for the Authority’s district; or
- (b) the Authority is the prescribed Authority in relation to the Council.]

[^{F63X1}(2B) in preparing its annual accounts in pursuance of subsection (2) above, and NHS trust shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—

- (a) the methods and principles according to which the accounts are to be prepared; and
- (b) the information to be given in the accounts.]

[^{F64X1}(2B) So far as relates to allotted sums paid to the members of a fund-holding practice—

- (a) accounts shall be kept in such form as the Secretary of State may with the approval of the Treasury direct;
- (b) the Comptroller and Auditor General may examine the accounts and records relating to them and any report of the auditor on them;

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- (c) in respect of each financial year, annual accounts in such form as the Secretary of State may with the approval of the Treasury direct shall be prepared and submitted to the relevant Family Health Services Authority; and
 - (d) in respect of each financial year, each Family Health Services Authority shall prepare in such form as the Secretary of State may with the approval of the Treasury direct, and include in its own accounts, a summarised version of the accounts submitted to the Authority under paragraph (c) above.]
- (3) ^{F65}
- (4) The Secretary of State shall prepare in respect of each financial year—
- (a) in such form as the Treasury may direct, summarised accounts of [^{F66}the bodies mentioned in subsection (1) above, other than the Dental Estimates Board]
 - (b) in such form and containing such information as the Treasury may direct, a statement of the accounts of the Dental Estimates Board;
- and shall transmit them on or before 30th November in each year to the Comptroller and Auditor General, who shall examine and certify them, and lay copies of them together with his report on them before both Houses of Parliament.
- [^{F67}(5) In subsection (2B) above “recognised fund–holding practice” and “allotted sum” have the same meaning as in section 15 of the National Health Service and Community Care Act 1990.]

Editorial Information

X1 S.98(2B): this is one of two provisions of this number inserted by different authorities in the same Act

Textual Amendments

- F55** S. 98(1)(b) repealed by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(2), **Sch. 10**
- F56** S. 98(1)(bb) inserted by Health Services Act 1980 (c. 53, SIF 113:2), **Sch. 1**, para. 69(a)
- F57** S. 98(1)(bbb) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 5(8), **Sch. 2 para. 24(1)**
- F58** S. 98(1)(cc) inserted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 12, **Sch. 5 para. 3(a)**.
- F59** S. 98(1)(dd) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 11(7)
- F60** Words substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(2)(a)(8)
- F61** Para. repealed by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 24, **Sch. 8 Pt. I**
- F62** S. 98(2A) inserted by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 6(2)
- F63** S. 98(2B) inserted (5.7.1990) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 5(8), **Sch. 2 para. 24(2)**
- F64** S. 98(2B) inserted (1.10.1990) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(2)(b)(8)
- F65** S. 98(3) repealed by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 20(2)(c), 66(2), **Sch. 10**
- F66** Words substituted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 12, **Sch. 5 para. 3(b)**
- F67** S. 98(5) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(2)(d)

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99 Regulation of financial arrangements.

(1) The Secretary of State may by regulations provide, in the case of all or any of the following bodies—

- (a) Regional Health Authorities,
- (b)^{F68}
- [^{F69}(bb) District Health Authorities;]
- (c) special health authorities,
- (d) Family Practitioner Committees,
- (e) Community Health Councils, and
- (f) the Dental Estimates Board,

for restricting the making of payments by or on behalf of the body otherwise than on such authorisation and subject to such conditions as may be specified in the regulations.

(2) Such provision may be made subject to such exceptions as may be so specified, and those regulations may contain such other provisions as to the making and carrying out by all or any of those bodies of such arrangements with respect to financial matters as the Secretary of State thinks necessary for the purpose of securing that the affairs of such bodies are conducted, so far as reasonably practicable, in such manner as to prevent financial loss and to ensure and maintain efficiency.

(3) The Secretary of State may give directions to any of those bodies as to any matter with respect to which those regulations may be made; and those directions may be specific in character and shall be—

- (a) such as appear to him requisite to secure that the affairs of the body are conducted in such a manner as is mentioned in subsection (2) above,
 - (b) without prejudice to the operation of any such regulation,
- and shall be complied with by the body to whom they are given.

Textual Amendments

F68 S. 99(1)(b) repealed by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(2), [Sch. 10](#)

F69 S. 99(1)(bb) inserted by [Health Services Act 1980 \(c. 53, SIF 113:2\)](#), [Sch. 1](#), para. 70

100 Other Payments.

(1) There shall be paid out of moneys provided by Parliament such expenses incurred by—

- (a)^{F70}
- (b) any standing advisory committee constituted under section 6 above,
- (c) the Medical Practices Committee,
- (d) the Tribunal constituted under section 46 above, and
- (e) the Dental Estimates Board,

as may be determined by the Secretary of State with the approval of the Treasury.

(2) Payments made under this section shall be . . .^{F71} made at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, or otherwise as the Secretary of State may with the approval of the Treasury determine.

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Textual Amendments

F70 S. 100(1)(a) repealed by Health Services Act 1980 (c. 53, SIF 113:2), Sch. 7

F71 Words repealed by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), ss. 29, 30(1), Sch. 9 Pt. I para. 21, Sch. 10 Pt. I

Modifications etc. (not altering text)

C8 S. 100(2) partially repealed by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3) s. 29. Sch. 9 para 21

101 Secretary of State's receipts.

Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund, . . . ^{F72}

Textual Amendments

F72 Words repealed by Health Services Act 1980 (c. 53, SIF 113:2), Sch. 7

Miscellaneous provisions as to remuneration, allowances and superannuation

102 Allowances and remuneration for members of certain bodies.

- (1) The Secretary of State may pay such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of [^{F73}the Treasury], determine—
 - (a) to members of any of the following bodies constituted under this Act—
 - (i) ^{F74}, any standing advisory committee constituted under section 6 above to advise the Secretary of State . . . ^{F74} and any sub-committee appointed by any such standing advisory committee . . . ^{F74};
 - (ii) the Medical Practices Committee;
 - (iii) any body on which functions are conferred by regulations under section 32 above;
 - (iv) the Dental Estimates Board;
 - (v) the Tribunal constituted under section 46 above;
 - (b) to members of any other body being a body specified in an order made by the Secretary of State as being a body recognised by him to have been formed for the purpose of performing a function connected with the provision of services under this Act.
- (2) The Secretary of State may pay to members of any of the following bodies such remuneration as he may, with the approval of [^{F75}the Treasury], determine—
 - (a) the Medical Practices Committee;
 - (b) any body on which functions are conferred by regulations under section 32 above;
 - (c) the Dental Estimates Board;
 - (d) the Tribunal constituted under section 46 above;

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- (e) any other body constituted under Part II of this Act, being a body specified in an order made for the purposes of this subsection, with the approval of [^{F76}the Treasury], by the Secretary of State.
- (3) Allowances shall not be paid under subsection (1) above except in connection with the exercise or performance of such powers or duties, in such circumstances, as may, with the approval of [^{F73}the Treasury], be determined by the Secretary of State.
- (4) Any payments under this section shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Secretary of State may, with the approval of [^{F76}the Treasury], determine.

Textual Amendments

- F73** Words substituted by virtue of S.I. 1981/1670, **arts. 2(1)(c)(d)(2), 3(5)**
- F74** Words repealed by **Health Services Act 1980 (c. 53, SIF 113:2), Sch. 7**
- F75** Words substituted by virtue of S.I. 1981/1670, **arts. 2(2), 3(5)**
- F76** Words substituted by virtue of S.I. 1981/1670, **arts 2(1)(2), 3(5)**

103 Special arrangement as to payment of remuneration.

- (1) If the Secretary of State—
- (a) considers it appropriate for remuneration in respect of services provided by any person in pursuance of Part II of this Act to be paid by a particular body, and
- (b) apart from this section the functions of the body do not include the function of paying the remuneration,
- the Secretary of State may by order confer that function on the body.
- (2) Any sums required to enable any body having that function to pay remuneration in respect of such services shall, if apart from this section there is no provision authorising the payment of the sums by the Secretary of State or out of money provided by Parliament, be paid by him.
- [^{F77}(3) If the Secretary of State by order so provides with respect to remuneration in respect of such pharmaceutical services as may be specified in the order,—
- (a) an NHS trust determined in accordance with the order shall have the function of paying sums so determined to the Family Health Services Authority which, under Part II of this Act, has the function of paying that remuneration; and
- (b) nothing in subsection (2) above shall apply with respect to that remuneration.]

Textual Amendments

- F77** S. 103(3) inserted by **National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), Sch. 9 para. 18(9)**

104 Superannuation of officers of certain hospitals.

- (1) The Secretary of State may enter into an agreement with the governing body of any hospital to which this section applies—

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- (a) for admitting officers of the hospital of such classes as may be provided in the agreement to participate, on such terms and conditions as may be so provided, in the superannuation benefits provided under regulations made under section 10 of the ^{M12}Superannuation Act 1972 in like manner as officers of Area [^{F78}or District] Health Authorities; and
 - (b) those regulations shall apply accordingly in relation to the officers so admitted subject to such modifications as may be provided in the agreement.
- (2) The governing body of any hospital to which this section applies shall have all such powers as may be necessary for the purpose of giving effect to any terms and conditions on which their officers are admitted to participate in those superannuation benefits.
- (3) This section applies to any hospital (not vested in the Secretary of State) which used, in pursuance of arrangements made by the governing body of the hospital with the Secretary of State, for the provision of services under this Act.

Textual Amendments

F78 Words inserted by [Health Services Act 1980 \(c. 53, SIF 113:2\)](#), [Sch. 1, para. 71](#)

Marginal Citations

M12 [1972 c. 11.](#)

105 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 [^{F79}assessment] or treatment being made under [^{F80}Part II of the ^{M13}Mental Health Act 1983][^{F81}the Secretary of State] shall, subject to the following provisions of this section, 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 shall be made under this section to a medical practitioner—
 - (a) in respect of an examination carried out as part of his duty to provide general medical services for the person examined; or
 - (b) in respect of an examination carried out or any recommendation or report made as part of his duty as an officer of a health authority.
- (3) This section shall only apply 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 any such application as mentioned in subsection (1) above, the whole cost of his maintenance and treatment will be defrayed out of moneys provided by Parliament under this Act . . . ^{F82}

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Textual Amendments

- F79** Words substituted by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), ss. 65(1), 69(6), Sch. 3 para. 56, [Sch. 5 para. 1](#)
- F80** Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), s. 148, [Sch. 4 para. 47\(b\)](#)
- F81** Words substituted by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), [s. 64\(4\)](#)
- F82** Words repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), s. 148, Sch. 4 para. 47(c), [Sch. 6](#)
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Marginal Citations

- M13** [1983 c. 20\(85\)](#).

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