



# National Health Service Act 1977

## 1977 CHAPTER 49

### PART IV

#### PROPERTY AND FINANCE

##### *Finance and Accounts*

**[<sup>F1</sup>97 Means of meeting expenditure of Health Authorities and Special Health Authorities out of public funds.**

[ It is the duty of the Secretary of State to pay to each Health Authority sums equal to <sup>F2</sup>(1) their general Part II expenditure.

[ “General Part II expenditure” is expenditure which—  
<sup>F3</sup>(2) (a) is attributable to the payment of remuneration to persons providing services in pursuance of Part II; but  
(b) does not fall within paragraphs (b) to (d) of subsection (3A).]

(3) It is the duty of the Secretary of State to pay to each Health Authority, in respect of each financial year, sums not exceeding the amount allotted for that year by the Secretary of State to the Authority towards meeting their main expenditure [<sup>F4</sup>in that year].

[ Schedule 12A to this Act (which defines “general Part II expenditure” and “main <sup>F5</sup>(3BB) expenditure” for the purposes of, and supplements, this section and section 97C below) shall have effect]

[ Where the Secretary of State has made an initial determination of the amount (“the <sup>F6</sup>(3C) initial amount”) to be allotted for any year to a Health Authority under subsection (3) above, he may, if it appears to him that the authority satisfied in any preceding year any objectives notified as objectives to be met by Health Authorities for the purposes of this subsection in performing their functions, increase the initial amount by a further sum.

(3D) In subsection (3C) above, “notified” means specified or referred to in a notice given to Health Authorities by the Secretary of State.

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- (3E) In making any increase under subsection (3C) above, the Secretary of State may (whether by directions under subsection (6) below or otherwise) impose any conditions he thinks fit on the application or retention by the authority of the sum in question.
- (3F) Where the Secretary of State has, under subsection (3C) above, increased by any sum the amount to be allotted for any year to a Health Authority and notified the authority of the allotment and it subsequently appears to him that the authority have failed (wholly or in part) to satisfy any conditions imposed in making that increase, he may—
  - (a) reduce the allotment made to that authority for that year, or
  - (b) when he has made an initial determination of the amount (“the initial amount”) to be allotted for any subsequent year to the authority under subsection (3) above, reduce the initial amount,
 by an amount not exceeding that sum.]
- (4) It is the duty of the Secretary of State to pay in respect of each financial year to each Special Health Authority sums not exceeding the amount allotted for that year by the Secretary of State to the Special Health Authority towards meeting the expenditure of the Special Health Authority which is attributable to the performance by the Special Health Authority of their functions in that year.
- (5) An amount is allotted to a Health Authority or Special Health Authority for a year under this section when they are notified by the Secretary of State that it is allotted to them for that year; and the Secretary of State may make an allotment under this section increasing or reducing an allotment previously so made.
- (6) The Secretary of State may give directions to a Health Authority or Special Health Authority with respect to—
  - (a) the application of sums paid to them under [<sup>F7</sup>this section];
  - (b) the payment of sums by them to the Secretary of State in respect of charges or other sums referable to the valuation or disposal of assets; or
  - (c) the application by them of sums received by them by virtue of section 15(7) (a) of the <sup>M1</sup>National Health Service and Community Care Act 1990.
- <sup>F8</sup>(7) .....
- (8) Where an order establishing a Special Health Authority provides for any expenditure of the Special Health Authority to be met by a Health Authority or by two or more Health Authorities in portions determined by or in accordance with the order, it is the duty of the Health Authority, or each of the Health Authorities, to pay to the Special Health Authority sums equal to, or to the appropriate portion of, that expenditure.
- (9) 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**

**F1** S. 97 substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 47** (with **Sch. 2 para. 6**)

**F2** S. 97(1)-(3B) substituted (14.10.1997) for s. 97(1)-(3) by 1997 c. 46, s. 36; S.I. 1997/2457, **arts. 2, 3**

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- F3** S. 97(2) omitted (1.9.1999 for E. with effect for the financial year 1999-2000 and subsequent financial years and otherwise *prosp.* ) by 1999 c. 8, **ss. 4(2)(a)(4)**, 67; S.I. 1999/2342, art. 2(1), **Sch. 1** and s. 97(2) repealed (*prosp.*) by 1999 c. 8, ss. 65(2), 67(1), **Sch. 5** Note
- F4** Words in s. 97(3) inserted (1.9.1999 for E. with effect for the financial year 1999-2000 and subsequent financial years and otherwise *prosp.*) by 1999 c. 8, **ss. 4(2)(b)(4)**, 67; S.I. 1999/2342, art. 2(1), **Sch. 1**
- F5** S. 97(3BB) substituted for s. 97(3A)(3B)(1.9.1999 for E. for specified purposes with effect for the financial year 1999-2000 and subsequent financial years and otherwise *prosp.*) by virtue of 1999 c. 8, **ss. 4(2)(c)(4)**, 67; S.I. 1999/2342, art. 2(1), **Sch. 1**
- F6** S. 97(3C)-(3F) inserted (1.9.1999 for E. and otherwise *prosp.*) by 1999 c. 8, **ss. 8**, 67; S.I. 1999/2342, art. 2(1), **Sch.**
- F7** Words in s. 97(6)(a) substituted (1.4.1998) by 1997 c. 46, s. 41(10), **Sch. 2 Pt. I para. 22**; S.I. 1998/631, art. 2(b), **Sch. 2** (with arts. 3-5)
- F8** S. 97(7) omitted (1.9.1999 for E. and 1.12.1999 for W.) by virtue of 1999 c. 8, s. 65, **Sch. 4 para. 31(3)**; S.I. 1999/2342, art. 2(1), **Sch. 1**; S.I. 1999/3184, art. 2(2), **Sch. 2** and is repealed (*prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 5**

**Marginal Citations**

- M1** 1990 c. 19.

**[<sup>F9</sup>97A Financial duties of Health Authorities and Special Health Authorities.**

- (1) It is the duty of every Health Authority, in respect of each financial year, to perform their functions so as to secure that the expenditure of the Health Authority which is attributable to the performance by them of their functions in that year (not including expenditure within subsection (1) of section 97 above) does not exceed the aggregate of—
  - (a) the [<sup>F10</sup>amount allotted to them for that year under subsection (3)]of that section;
  - (b) any sums received by them in that year under any provision of this Act (other than sums received by them under that section); and
  - (c) any sums received by them in that year otherwise than under this Act for the purpose of enabling them to defray any such expenditure.
- (2) It is the duty of every Special Health Authority, in respect of each financial year, to perform their functions so as to secure that the expenditure of the Special Health Authority which is attributable to the performance by them of their functions in that year does not exceed the aggregate of—
  - (a) the amount allotted to them for that year under subsection (4) of section 97 above;
  - (b) any sums received by them in that year under any provision of this Act (other than sums received by them under that subsection); and
  - (c) any sums received by them in that year otherwise than under this Act for the purpose of enabling them to defray any such expenditure.
- (3) The Secretary of State may give such directions to a Health Authority or Special Health Authority as appear to be requisite to secure that the Health Authority or Special Health Authority comply with the duty imposed on them by subsection (1) or (2) above.
- (4) Directions under subsection (3) above may be specific in character.
- <sup>F11</sup>(5) . . . . .
- (6) To the extent to which—

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- (a) any expenditure is defrayed by a Health Authority or Special Health Authority as trustee or on behalf of a Health Authority or Special Health Authority by special trustees; or
  - (b) any sums are received by a Health Authority or Special Health Authority as trustee or under section 96A above,
- that expenditure and, subject to subsection (8) below, those sums shall be disregarded for the purposes of this section.
- (7) For the purposes of this section sums which, in the hands of a Health Authority or Special Health Authority, cease to be trust funds and become applicable by the Health Authority or Special Health Authority otherwise than as trustee shall be treated, on their becoming so applicable, as having been received by the Health Authority or Special Health Authority otherwise than as trustee.
- (8) Of the sums received by a Health Authority or Special Health Authority under section 96A above so much only as accrues to the Health Authority or Special Health Authority after defraying any expenses incurred in obtaining them shall be disregarded under subsection (6) above.
- (9) Subject to subsection (6) 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 received under this Act by a Health Authority or Special Health Authority of a description specified in the directions;
  - (b) whether expenditure of a description specified in the directions is, or is not, to be treated for those purposes as—
    - (i) expenditure within subsection (1) above of a Health Authority of a description so specified; or
    - (ii) expenditure within subsection (2) above of a Special Health Authority of a description so specified; or
  - (c) the extent to which, and the circumstances in which, sums received—
    - (i) by a Health Authority under <sup>F12</sup> . . . section 97 above; or
    - (ii) by a Special Health Authority under subsection (4) of that section,
 but not yet spent are to be treated for the purposes of this section as part of the expenditure of the Health Authority or Special Health Authority and to which financial year's expenditure they are to be attributed.]

#### Textual Amendments

- F9** S. 97A substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. 1 para. 48** (with Sch. 2 para. 6)
- F10** Words in s. 97A substituted (1.4.1998) by 1997 c. 46, s. 41(10), **Sch. 2 Pt. 1 para. 23(a)**; S.I. 1998/631, art. 2(b), **Sch. 2** (with arts. 3-5)
- F11** S. 97A(5) omitted (1.9.1999 for E. and 1.12.1999 for W.) by virtue of 1999 c. 8, s. 65, **Sch. 4 para. 32**; S.I. 1999/2342, art. 2(1), **Sch. 1**; S.I. 1999/3184, art. 2(2), **Sch. 2** and is repealed (1.4.2000) by 1999 c. 8, s. 65, **Sch. 5**; S.I. 2000/1041, art. 2(d), **Sch.**
- F12** Words in s. 97A(9)(c)(i) repealed (1.4.1998) by 1997 c. 46, s. 41(10)(12), Sch. 2 Pt. 1 para. 23(b), **Sch. 3 Pt. 1**; S.I. 1998/631, art. 2(b), Sch. 2, **Sch. 3 Pt. 1** (with arts. 3-5)

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VALID FROM 22/12/2000

**[<sup>F13</sup>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**

**F13** 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)**

**C1** S. 97AA amended (W.) (*prosp.*) by 2000 c. 20, **ss. 12(2), 30**

**[<sup>F14</sup>97B** .....

**Textual Amendments**

**F14** S. 97B repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), **Sch. 3** (with **Sch. 2** para. 6)

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VALID FROM 01/04/2000

### **[<sup>F15</sup>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 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**

- F15** *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

### **[<sup>F16</sup>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

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- (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,
- 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

**F16** 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



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VALID FROM 22/12/2000

### [<sup>F17</sup>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.
- (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

**F17** 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)

**C2** 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)



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VALID FROM 10/10/2002

## **[<sup>F18</sup>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 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

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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

**F18** 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

#### 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.

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- (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.

#### Textual Amendments

**F18** 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,

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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.]

#### Textual Amendments

**F18** 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—
- [<sup>F19</sup>(a) every Health Authority;
  - (b) every Special Health Authority;
  - (c) every NHS trust;]
  - (d) all special trustees appointed in pursuance of section 29(1) of the National Health Service Reorganisation Act 1973 and section 95(1) above;
  - [<sup>F20</sup>(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 [<sup>F21</sup>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.

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(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.

F22

[<sup>F23</sup>(2A) The accounts prepared and transmitted by a [<sup>F24</sup>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 [<sup>F25</sup>Health Authority’s area]; or
- (b) the [<sup>F26</sup>Health Authority is prescribed for the purposes of this subsection] in relation to the Council.]

[<sup>F27X1</sup>(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.]

[<sup>F28</sup>[ So far as relates to allotted sums paid [<sup>F30</sup>under section 15 of the <sup>M2</sup>National Health Service and Community Care Act 1990] to the members of a fund-holding practice—

[<sup>F29X1</sup>(2B) 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;
- (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 [<sup>F31</sup>Health Authority]; and
- (d) in respect of each financial year, each [<sup>F31</sup>Health 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 [<sup>F32</sup>the Health Authority] under paragraph (c) above.]]

(3) ..... F33

(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 [<sup>F34</sup>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.

<sup>F35</sup>(5) .....

**Editorial Information**

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

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### Textual Amendments

- F19** S. 98(1)(a)-(c) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 50(a)** (with Sch. 2 para. 6) (with transitional provisions in S.I. 1996/709, **art. 5(1)**)
- F20** S. 98(1)(dd) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 11(7)**
- F21** Words substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 20(2)(a)(8)**
- F22** Para. repealed by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 24, **Sch. 8 Pt. I**
- F23** S. 98(2A) inserted by Health and Social Security Act 1984 (c. 48, SIF 113:1), **s. 6(2)**
- F24** Words in s. 98(2A) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 50(b)(i)** (with Sch. 2 para. 6) (with transitional provisions in S.I. 1996/709, **art. 5(1)**)
- F25** Words in s. 98(2A)(a) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 50(b)(ii)** (with Sch. 2 para. 6) (with transitional provisions in S.I. 1996/709, **art. 5(1)**)
- F26** Words in s. 98(2A)(b) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 50(b)(iii)** (with Sch. 2 para. 6) (with transitional provisions in S.I. 1996/709, **art. 5(1)**)
- F27** 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)**
- F28** S. 98(2B) repealed (1.10.1999 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 5**; S.I. 1999/2540, art. 2(1)(a), **Sch. 1** (with
- F29** 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)**
- F30** Words in s. 98(2B) inserted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 50(c)(i)** (with Sch. 2 para. 6) (with transitional provisions in S.I. 1996/709, **art. 5(1)**)
- F31** Words in s. 98(2B)(c)(d) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 50(c)(ii)** (with Sch. 2 para. 6) (with transitional provisions in S.I. 1996/709, **art. 5(1)**)
- F32** Words in s. 98(2B)(d) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 50(c)(iii)** (with Sch. 2 para. 6) (with transitional provisions in S.I. 1996/709, **art. 5(1)**)
- F33** 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**
- F34** 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)**
- F35** S. 98(5) repealed (1.4.1996) by 1995 c. 17, ss. 5(1)(2), **Sch. 3** (with Sch. 2 para. 6) (with transitional provisions in S.I. 1996/709, **art. 5(1)**)

### Modifications etc. (not altering text)

- C3** S. 98 extended (1.4.1999) by S.I. 1999/804, **art. 7**  
S. 98 extended (1.4.1999) by S.I. 1999/807, **art. 5(1)**
- C4** S. 98(1) applied (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 4(1)(2), 8(1), **Sch. 2 para. 13(4)** (with Sch. 2 para. 6) (with transitional provisions in S.I. 1996/709, **art. 5(1)**)
- C5** S. 98(2B)(c) modified (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 4(1)(2), 8(1), **Sch. 2 para. 13(5)** (with Sch. 2 para. 6) (with transitional provisions in S.I. 1996/709, **art. 5(1)**)  
S. 98(2B)(c) modified (W.) (1.4.2000) by S.I. 2000/999, **art. 9(1)(2)**
- C6** S. 98(4) modified (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 4(1)(2), 8(1), **Sch. 2 para. 13(6)** (with Sch. 2 para. 6) (with transitional provisions in S.I. 1996/709, **art. 5(1)**)



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### Marginal Citations

M2 1990 c. 19.

## 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—

- [<sup>F36</sup>(a) Health Authorities,
- (b) Special Health Authorities,]
- (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,

<sup>F37</sup> . . . .

### Textual Amendments

**F36** S. 99(1)(a)(b) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) for s. 99(1)(a)-(d) by 1995 c. 17, ss. 2(1)(3), 8(1) Sch. 1 para. 51 (with Sch. 2 para. 6)

**F37** Words in s. 99(3) omitted (1.9.1999 for E. and 1.12.1999 for W.) by virtue of 1999 c. 8, s. 65, Sch. 4 para. 34(b); S.I. 1999/2342, art. 2(1), Sch. 1; S.I. 1999/3184, art. 2(2), Sch. 2 and is repealed (*prosp.*) by 1999 c. 8, ss. 65, 67, Sch. 5

## 100 Other Payments.

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

- (a) . . . . .<sup>F38</sup>
- (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.



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- (2) Payments made under this section shall be . . . <sup>F39</sup> 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**

**F38** S. 100(1)(a) repealed by [Health Services Act 1980 \(c. 53, SIF 113:2\)](#), **Sch. 7**

**F39** 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**

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

**C7** 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, . . . <sup>F40</sup>

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**Textual Amendments**

**F40** Words repealed by [Health Services Act 1980 \(c. 53, SIF 113:2\)](#), **Sch. 7**

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