

Status: Point in time view as at 10/03/1991.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 11

ADDITIONAL PROVISIONS AS TO THE CONTROL OF MAXIMUM PRICES FOR MEDICAL SUPPLIES

Orders and directions

- 1 (1) Any power of making orders under section 57 above includes power to provide for any incidental and supplementary provisions which the Secretary of State thinks it expedient for the purposes of the order to provide.
- (2) An order under section 57 may make such provisions (including provision for requiring any person to furnish any information) as the Secretary of State thinks necessary or expedient for facilitating the introduction or operation of a scheme of control for which provision has been made, or for which, in his opinion, it will or may be found necessary or expedient that provision should be made, under that section.
- (3) An order under section 57 may prohibit the doing of anything regulated by the order except under the authority of a licence granted by such authority or person as may be specified in the order, and may be made so as to apply either to persons or undertakings generally or to any particular person or undertaking or class of persons or undertakings, and so as to have effect either generally or in any particular area.
- (4) [^{F1}The ^{M1}Interpretation Act 1978] shall apply to the interpretation of any order made under section 57 as it applies to the interpretation of an Act of Parliament and for the purposes of [^{F1}sections 16(1) and 17(2)(a)] of that Act any such order shall be deemed to be an Act of Parliament.

Textual Amendments

F1 Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), s. 25(2)

Marginal Citations

M1 [1978 c. 30\(115:1\)](#).

Notices, authorisations and proof of documents

- 2 (1) A notice to be served on any person for the purposes of section 57 above, or of any order or direction made or given under that section, shall be deemed to have been duly served on the person to whom it is directed if—
 - (a) it is delivered to him personally; or

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- (b) it is sent by registered post or the recorded delivery service addressed to him at his last or usual place of abode or place of business.
- (2) Where under section 57 and this Schedule a person has power to authorise other persons to act thereunder, the power may be exercised so as to confer the authority either on particular persons or on a specified class of persons.
- (3) Any permit, licence, permission or authorisation granted for the purposes of section 57 may be revoked at any time by the authority or person empowered to grant it.
- (4) Every document purporting to be an instrument made or issued by the Secretary of State or other authority or person in pursuance of section 57 and this Schedule or any provisions so having effect and to be signed by or on behalf of the Secretary of State, or that authority or person, shall be received in evidence and shall until the contrary is proved, be deemed to be an instrument made or issued by the Secretary of State, or that authority or person.
- (5) Prima facie evidence of any such instrument as is described in sub-paragraph (4) above may in any legal proceedings (including arbitrations) be given by the production of a document purporting to be certified to be a true copy of the instrument by or on behalf of the Secretary of State or other authority or person having power to make or issue the instrument.

Territorial extent

- 3 So far as any provisions contained in or having effect under section 57 above and this Schedule impose prohibitions, restrictions or obligations on persons, those provisions apply to all persons in the United Kingdom and all persons on board any British ship or aircraft, not being an excepted ship or aircraft, and to all other persons, wherever they may be, who are ordinarily resident in the United Kingdom and who are citizens of the United Kingdom and Colonies or British protected persons.

In this paragraph—

“British aircraft” means an aircraft registered in—

- (a) any part of Her Majesty’s dominions;
- (b) any country outside Her Majesty’s dominions in which for the time being Her Majesty has jurisdiction;
- (c) any country consisting partly of one or more colonies and partly of one or more such countries as are mentioned in paragraph(b) above;

“British protected person” means the same as in [^{F2}the ^{M2}British Nationality Act 1981];

“excepted ship or aircraft” means a ship or aircraft registered in any country for the time being listed in [^{F2}Schedule 3 to the ^{M3}British Nationality Act 1981] or in any territory administered by the government of any such country, not being a ship or aircraft for the time being placed at the disposal of, or chartered by or on behalf of, Her Majesty’s Government in the United Kingdom.

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Textual Amendments

F2 Words substituted by [British Nationality Act 1981 \(c. 61, SIF 87\)](#), s. 52(6), [Sch. 7](#)

Marginal Citations

M2 [1981 c. 61\(87\)](#).

M3 [1981 c. 61\(87\)](#).

False documents and false statements

- 4 (1) A person shall not, with intent to deceive—
- (a) use any document issued for the purposes of section 57 above and this Schedule or of any order made under that section;
 - (b) have in his possession any document so closely resembling such a document as is described in paragraph (a) above as to be calculated to deceive;
 - (c) produce, furnish, send or otherwise make use of for purposes connected with that section and this Schedule or any order or direction made or given under that section, any book, account, estimate, return, declaration or other document which is false in a material particular.
- (2) A person shall not, in furnishing any information for the purposes of section 57 and this Schedule or of any order made under that section, make a statement which he knows to be false in a material particular or recklessly make a statement which is false in a material particular.

Restrictions on disclosing information

- 5 No person who obtains any information by virtue of section 57 above and this Schedule shall, otherwise than in connection with the execution of that section and this Schedule or of an order made under that section, disclose that information except for the purposes of any criminal proceedings, or of a report of any criminal proceedings, or with permission granted by or on behalf of a Minister of the Crown.

Offences by corporations

- 6 Where an offence under this Schedule committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

In this paragraph, the expression “director”, in relation to a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

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Penalties

- 7 (1) If any person contravenes or fails to comply with any order made under section 57 above, or any direction given or requirement imposed under that section, or contravenes or fails to comply with this Schedule (except for paragraph 8(3) or paragraph 9(4) below) he is, save as otherwise expressly provided, guilty of an offence.
- (2) Subject to any special provisions contained in this Schedule, a person guilty of such an offence shall—
- (a) on summary conviction, be liable to imprisonment for a term not exceeding three months or to a fine not exceeding £100, or to both; or
 - (b) on conviction on indictment, be liable to imprisonment for a term not exceeding two years or to a fine not exceeding £500, or to both.
- (3) Where a person convicted on indictment of such an offence is a body corporate, no provision limiting the amount of the fine which may be imposed shall apply, and the body corporate shall be liable to a fine of such amount as the court thinks fit.

Production of documents

- 8 (1) For the purposes—
- (a) of securing compliance with any order made or direction given under section 57 above by or on behalf of the Secretary of State, or
 - (b) of verifying any estimates, returns or information furnished to the Secretary of State in connection with section 57 or any order made or direction given under that section,
- an officer of the Secretary of State duly authorised in that behalf has power, on producing (if required to do so) evidence of his authority, to require any person carrying on an undertaking or employed in connection with an undertaking to produce to that officer forthwith any documents relating to the undertaking which that officer may reasonably require for the purpose set out above.
- (2) The power conferred by this paragraph to require any person to produce documents includes power—
- (a) if the documents are produced, to take copies of them or extracts from them and to require that person, or where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them,
 - (b) if the documents are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.
- (3) If any requirement to produce documents or provide an explanation or make a statement which is imposed by virtue of this paragraph is not complied with, the person on whom the requirement was so imposed is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding [^{F3}level 3 on the standard scale] , or to both.

Where a person is charged with such an offence in respect of a requirement to produce any document, it shall be a defence to prove that they were not in his possession or

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under his control and that it was not reasonably practicable for him to comply with the requirements.

Textual Amendments

F3 Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), [arts. 5, 6](#)

- 9 (1) If a justice of the peace is satisfied, on information on oath laid on the Secretary of State's behalf, that there are any reasonable grounds for suspecting that there are on any premises any documents of which production has been required by virtue of paragraph 8 above and which have not been produced in compliance with that requirement, he may issue a warrant under this paragraph.

A warrant so issued may authorise any constable, together with any other persons named in the warrant and any other constables—

- (a) to enter the premises specified in the information (using such force as is reasonably necessary for the purpose); and
- (b) to search the premises and take possession of any documents appearing to be such documents as are mentioned above, or to take in relation to any documents so appearing any other steps which may appear necessary for preserving them and preventing interference with them.

- (2) Every warrant issued under this paragraph shall continue in force until the end of the period of one month after the date on which it is issued.
- (3) Any documents of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for an offence under section 57 above and this Schedule to which they are relevant, until the conclusion of those proceedings.
- (4) Any person who obstructs the exercise of any right of entry or search conferred by virtue of a warrant under this paragraph, or who obstructs the exercise of any rights so conferred to take possession of any documents, is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding [^{F4}level 3 on the standard scale], or to both.

Textual Amendments

F4 Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), [arts. 5, 6](#)

Northern Ireland

- 10 (1) So far as the Secretary of State's power under section 57 above and this Schedule is exercisable in relation to Northern Ireland—
- (a) he may, to such extent and subject to such restrictions as he thinks proper, by order delegate that power either to a Northern Ireland department or

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- departments specified in that order or to the appropriate Northern Ireland department or departments; and
- (b) where any power is so delegated to the appropriate Northern Ireland department or departments, that power shall be exercised by such Northern Ireland department or departments as the Secretary of State may by order specify.
- (2) The power of the Secretary of State to make an order under sub-paragraph (1)(b) above shall be exercisable by statutory instrument; and where a power to make orders has been delegated in pursuance of sub-paragraph (1)—
- (a) any order made in pursuance of that power shall be made by statutory instrument; and
- (b) the ^{M4}Statutory Instruments Act 1946 shall apply in like manner as if the order had been made by the Secretary of State.
- (3) The references in section 57(1) and (2) above to this Act include any corresponding enactments of the Parliament of Northern Ireland or the Northern Ireland Assembly.

Marginal Citations

M4 1946 c. 36(115:2).

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