



National Health Service (Primary Care) Act 1997

1997 CHAPTER 46

PART III

MISCELLANEOUS AND SUPPLEMENTAL

36 Expenditure of Health Authorities.

In section 97 of the 1977 Act (expenditure of Health Authorities), for subsections (1) to (3) substitute—

- “(1) It is the duty of the Secretary of State to pay to each Health Authority sums equal to their general Part II expenditure.
- (2) “General Part II expenditure” is expenditure which—
- (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.
- (3A) In subsection (3) “main expenditure” means expenditure which is attributable to—
- (a) the performance by the Authority of their functions in that year, but—
 - (i) is not general Part II expenditure; and
 - (ii) does not fall within paragraphs (b) to (d);
 - (b) the reimbursement of expenses of persons providing services in pursuance of Part II which are designated expenses incurred in connection with the provision of the services (or in giving instruction in matters relating to the services);

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- (c) remuneration which is paid to persons providing additional pharmaceutical services (in accordance with directions under section 41A), in respect of such of those services as are designated; or
- (d) remuneration which is—
 - (i) paid to persons providing general medical services under Part II;
 - (ii) determined by the Health Authority concerned; and
 - (iii) of a designated description.

(3B) In paragraph (b), (c) or (d) of subsection (3A), “designated” means designated in writing by the Secretary of State for the purposes of that paragraph and in relation to the allotment in question.”

37 Expenditure of Health Boards.

(1) In section 85 of the 1978 Act (expenses of certain bodies), after subsection (1) insert—

“(1AA) Notwithstanding subsection (2), the amount allotted by the Secretary of State to a Health Board under subsection (1) shall include provision for expenditure of that Board which is attributable to—

- (a) remuneration which is paid to persons providing additional pharmaceutical services (in accordance with directions under section 27A), in respect of such of those services as are designated; or
- (b) remuneration which is—
 - (i) paid to persons providing general medical services under Part II;
 - (ii) determined by the Health Board concerned; and
 - (iii) of a designated description.

(1AB) In subsection (1AA), “designated” means designated in writing by the Secretary of State for the purposes of that subsection and in relation to the allotment in question.”

(2) In subsection (2) at the beginning insert “ Subject to subsection (1AA), ”.

38 Corresponding provision for Northern Ireland.

(1) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the ^{M1}Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is made only for purposes corresponding to purposes of any of the provisions of this Act—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) This section does not apply in relation to the provisions of sections 32 to 34.

Marginal Citations

M1 1974 c. 28.

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39 Regulations and directions.

- (1) Any power under this Act to make regulations is exercisable by the Secretary of State.
- (2) Any such power—
 - (a) may be exercised to make different provision for different cases or descriptions of case, including different provision for different areas; and
 - (b) includes power to make such incidental, supplemental, consequential or transitional provision as appears to the Secretary of State to be appropriate.
- (3) Regulations under this Act must be made by statutory instrument.
- (4) Such a statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Any power under or by virtue of this Act to give directions—
 - (a) is to be exercised by an instrument in writing; and
 - (b) includes power to vary or revoke the directions by subsequent directions.
- (6) Subsection (2) applies in relation to any power of the Secretary of State under or by virtue of this Act to give directions as it applies in relation to any power of his to make regulations.

40 Interpretation.

- (1) Subject to subsection (2), Part I—
 - (a) in its application to England and Wales, is to be read as one with the 1977 Act; and
 - (b) in its application to Scotland, is to be read as one with the 1978 Act.
- (2) In this Act—
 - “the 1977 Act” means the ^{M2}National Health Service Act 1977;
 - “the 1978 Act” means the ^{M3}National Health Service (Scotland) Act 1978;
 - “authority” has the meaning given by section 1(8) [^{F1}, except in Schedule 1];
 - “health service” means the health service in England and Wales and the health service in Scotland;
 - [^{F2}“medical list” has the meaning given by section 2(5);]
 - [^{F2}“personal medical services” and “personal dental services” have the meaning given in section 1(8);]
 - “pilot scheme” and “piloted services” have the meaning given in section 1;
 - “prescribed” means prescribed by regulations; and
 - “regulations” means regulations under this Act.

^{F3}(3)

Textual Amendments

- F1** Words in the definition of “authority” in s. 40(2) inserted (1.10.2002 for E.W.) by [2002 c. 17, ss. 4\(3\), 42\(3\), Sch. 3 Pt. 1 para. 9](#)
- F2** Words in s. 40(2) repealed (S.) (1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\), s. 9\(1\), sch. para. 2\(8\)](#); [S.S.I. 2004/58, art. 2\(3\)](#)

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F3 S. 40(3) repealed (1.4.2004 for specified purposes except for W., 1.4.2004 for W. for specified purposes, 1.4.2006 for W. for specified purposes, 1.3.2007 in so far as not already in force, immediately before the National Health Service Act 2006 comes into force) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), s. 199\(1\)\(4\), Sch. 14 Pt. 4](#) Note; S.I. 2004/288, art. 6(2)(p) (with arts. 89) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, art. 5(2)(p) (with arts. 67) (as amended by S.I. 2004/1019 and S.I. 2006/345); S.I. 2006/345, art. 7(2)(i); S.I. 2006/1407, art. 1(1), Sch. 1 para. 13 (with art. 4)

Marginal Citations

M2 1977 c. 49.

M3 1978 c. 29.

41 Short title, commencement and extent, etc.

- (1) This Act may be referred to as the National Health Service (Primary Care) Act 1997.
- (2) Sections 38 to 40 and subsections (1) to (9) and (13) and (14) of this section come into force on the passing of this Act.
- (3) Otherwise, this Act comes into force on such date as may be appointed by order made by the Secretary of State; but different dates may be appointed for different provisions and for different purposes.
- (4) Any such order may include such transitional provisions or savings as the Secretary of State considers appropriate.
- (5) A Health Authority, Health Board or NHS trust is to be taken as having, at any time before the commencement of any provision of this Act, power to prepare for that commencement.
- (6) Any amendment, repeal or revocation made by or under this Act has the same extent as the enactment or other instrument amended, repealed or revoked.
- (7) Subject to subsection (6), only section 38 and this section (except subsections (5) and (8)) extend to Northern Ireland.
- (8) The Secretary of State may by order provide that this Act extends to the Isles of Scilly with such modifications (if any) as are specified in the order; but otherwise this Act does not extend there.
- (9) Orders under subsections (3), (8) and (13) must be made by statutory instrument.
- (10) Part I of Schedule 2 makes minor and consequential amendments.
- (11) Part II of Schedule 2 makes amendments to facilitate, or which are otherwise desirable in connection with, the consolidation of certain enactments relating to the health service.
- (12) The repeals and revocations set out in Schedule 3 are to have effect.
- (13) The Secretary of State may by order make such amendments or repeals of any enactment passed before, or in the same Session as, this Act as appear to him necessary or expedient in consequence of any provision of this Act.
- (14) An order under subsection (13)—

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- (a) may contain such supplemental, incidental, consequential or transitional provisions and savings as the Secretary of State considers appropriate; and
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Subordinate Legislation Made

- P1** S. 41(3) power partly exercised (23.7.1997): different dates appointed for specified provisions by [S.I. 1997/1780, art. 2, Sch.](#)
S. 41(3) power partly exercised (29.10.1997): different dates appointed for specified provisions by [S.I. 1997/2620, art. 2](#)
S. 41(3) power partly exercised (2.4.2001): 5.3.2001 appointed for specified provisions by [S.S.I. 2001/58, art. 2](#)
S. 41(3) power partly exercised (E.) (20.6.2002): 24.6.2002 appointed for specified provisions by [S.I. 2002/1616, art. 2](#)
- P2** S. 41(3)(4) power partly exercised (13.10.1997): 14.1.1997 appointed for specified provision by [S.I. 1997/2457, art. 2 \(with art. 3\)](#)
S. 41(3)(4) power partly exercised (9.3.1998): different dates appointed for specified provisions by [S.I. 1998/631, art. 2, Schs. 1, 2](#) (subject to [arts. 3, 4](#) (as amended (2.3.2001) by [S.S.I. 2001/58, art. 3](#) and (2.2.2004) by [S.I. 2004/287, art. 4](#)))
S. 41(3)(4) power partly exercised (13.8.1998): different dates appointed for specified provisions by [S.I. 1998/1998, art. 2, Schs. 1, 2](#) (with [art. 3](#) (as amended (2.2.2004) by [S.I. 2004/287, art. 4](#)))
S. 41(3)(4) power partly exercised (17.11.1998): different dates appointed for specified provisions by [S.I. 1998/2840, art. 2, Sch.](#) (with [art. 3](#))

Commencement Information

- I1** S. 41 partly in force; s. 41(1)-(9)(13)(14) in force at 21.3.1997 see s. 41; s. 41(10) in force for certain purposes at 15.8.1997 by [S.I. 1997/1780, art. 2\(1\), Sch.](#); s. 41(10)(12) in force for certain purposes at 1.4.1998 by [S.I. 1998/631, art. 2\(a\), Sch. 1](#) (with [arts. 3-5](#)); s. 41(10)(12) in force for further certain purposes by [S.I. 1998/1998, art. 2\(2\)\(a\), Sch. 1](#); s. 41(10)(12) in force for further certain purposes at 18.11.1998 and 10.12.1998 by [S.I. 1998/2840, art. 2, Sch.](#); s. 41(10) in force (E.) for certain purposes at 24.6.2002 by [S.I. 2002/1616, art. 2](#)
- I2** S. 41(10) in force at 1.4.2004 for specified purposes for W. by [S.I. 2004/287, art. 3](#)

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