

HEALTH ACT 1999

EXPLANATORY NOTES

THE ACT

10. The Act is in three Parts:
 - Part I makes changes to the way the National Health Service is run in England and Wales. Part I also makes provision for the control of prices of medicines supplied to the National Health Service in England, Wales and Scotland, and the control of profits made by suppliers;
 - Part II makes changes to the way the National Health Service is run in Scotland;
 - Part III is concerned with the regulation of health care professions, the English and Scottish border and includes various other miscellaneous and supplementary provisions.
11. **Part I** of the Act is mainly concerned with implementing those proposals set out in the White Papers *The new NHS* and *Putting Patients First* which require primary legislation. This part of the Act therefore makes a number of changes to the structure of the NHS in England and Wales.
12. **Section 1 abolishes GP fund-holding.** Sections 2 to 12 (and Schedule 1) are concerned with the local administration of the NHS. Sections 2 to 7 make provision for the establishment, functions and funding of **Primary Care Trusts** and define the expenditure of Health Authorities and Primary Care Trusts. Section 8 enables the Secretary of State to make **additional payments to Health Authorities** on the basis of their past performance. Section 9 enables the Secretary of State to require general medical practitioners, general dental practitioners, optometrists and pharmacists to hold approved **indemnity cover**. Section 10 makes provision about determinations of remuneration of these practitioners. Section 11 enables local representative committees to represent doctors and dentists who work as assistants and deputies or who provide or perform personal medical and dental services. Section 12 is concerned with **the distribution and exercise of functions**. It provides the mechanism by which Health Authorities and Primary Care Trusts will inherit the majority of their functions and deals with the powers of the Secretary of State and Health Authorities to direct NHS bodies about the exercise of their functions. Sections 13 to 17 make a number of changes to the **legislative framework for NHS trusts**.
13. **Sections 18 to 25** (and Schedule 2) concern the **quality of services** provided by NHS bodies. They place a duty of quality on Health Authorities, NHS trusts and Primary Care Trusts, establish a new statutory body to be known as the **Commission for Health Improvement** and as a consequence abolish the Clinical Standards Advisory Group.
14. **Sections 26 to 32** implement **measures to strengthen partnership working**, both within the NHS and between the NHS and local authorities. They create a new duty of co-operation within the NHS and extend the duty between NHS bodies and local authorities; provide a new statutory mechanism for strategic planning to improve health and health care services; provide for NHS bodies and local authorities to make payments to one another and make use of new operational flexibilities to improve the way health

and health-related functions are exercised; and remove the statutory requirement for Joint Consultative Committees.

15. **Sections 33 to 38** concern the **control of prices of and profits on medicines**. They enable the Secretary of State to make regulations and directions securing compliance with aspects of a negotiated pharmaceutical price regulation scheme, to regulate the profits of companies outside the negotiated agreement and to set maximum prices for medicines supplied to the NHS.
16. **Sections 39 and 40** are designed to tackle **fraud** in the NHS. Section 39 does this in two ways. First, it creates a **civil penalty** to be imposed where a person fails to pay an NHS charge, or claims a payment to which he is not entitled, towards the cost of an NHS charge or service. Secondly it creates a new **criminal offence** of knowingly making false representations to evade or gain a reduction or remission of, or a payment relating to, NHS charges. Section 40 provides for the **disqualification of practitioners** from providing services under Part II of the National Health Service Act 1977 in cases of fraud.
17. **Section 41** enables NHS trusts in England and Wales, with Secretary of State approval, to provide **high security psychiatric services**. Section 42 makes provision for the **Registrar General** to provide the Secretary of State with information about births and deaths for the purpose of the health service. Section 43 amends the powers of the **Health Service Commissioner** to release information. Section 44 enables the Secretary of State to make an order to correct deficiencies which have been identified in the Health Authorities Act 1995 (Transitional Provisions) Order 1996.
18. **Part II** of the Act makes **changes to the National Health Service in Scotland**, implementing those proposals set out in the White Paper *Designed to Care* requiring primary legislation. Section 45 abolishes GP fund-holding. Sections 46 to 49 amend the existing legislative framework for NHS trusts. They make changes to the establishment of NHS trusts, provide a mechanism for NHS trusts to take on the responsibility for making arrangements for the provision of family health services and amend the constitution of NHS trust boards. Section 50 makes provision for the transfer of staff between health service bodies. Section 51 confers a new duty of quality on NHS trusts and sections 52 to 55 make a number of provisions regarding the financing of Health Boards and NHS trusts. Section 56 enables the Secretary of State to require general medical practitioners, general dental practitioners, optometrists and pharmacists to hold approved indemnity cover and section 57 makes provision regarding the determinations of remuneration of these practitioners. Section 58 provides for the disqualification of practitioners from providing Part II services in cases of fraud and section 59 introduces a civil penalty charge to be imposed where a person fails to pay an NHS charge, or claims a payment to which he is not entitled, towards the cost of an NHS charge or service.
19. **Part III** of the Act deals with miscellaneous and supplementary issues. Section 60 (with Schedule 3) makes provision for Her Majesty to make Orders in Council regarding the **regulation of health care professions**. Section 61 enables Her Majesty to make an Order in Council regarding the **provision of health services at the border between England and Scotland**. The remainder of this Part of the Act includes a number of supplementary and miscellaneous provisions, relating, in particular, to orders and regulations under the Act, consequential and transitional provisions, amendments and repeals, **devolution**, commencement of the Act's provisions, the extent of the Act and the short title.