Health Act 1999

1999 CHAPTER 8

PART I

THE NATIONAL HEALTH SERVICE

Control of prices of medicines and profits

38 Controls: supplementary

(1) Any power conferred on the Secretary of State by sections 33(6) to (8) and 34 to 36 may be exercised by—

(a) making regulations, or

(b) giving directions to a specific manufacturer or supplier,

and the regulations may themselves confer power for the Secretary of State to give directions to a specific manufacturer or supplier; and in this subsection "specific" means specified in the direction concerned.

(2) Any power to make regulations under any of those provisions or section 37 may be exercised generally in relation to manufacturers or suppliers of health service medicines or be exercised in relation to any class of manufacturers or suppliers.

(3) The powers to refuse approval under section 33(8)(a) or 35(6)(a) or to impose a limit under section 34(1)(a) or 35(1) are exercisable only with a view to limiting by reference to the prices or profits which would be reasonable in all the circumstances—

(a) the prices which may be charged for, or

(b) the profits which may accrue to any manufacturer or supplier in connection with,

the manufacture or supply for the purposes of the health service of health service medicines.

(4) In so exercising those powers (in the case of sections 34(1)(a) and 35(1) and (6)(a)) the Secretary of State and any other person must bear in mind, in particular, the need

for medicinal products to be available for the health service on reasonable terms and the costs of research and development.

(5) Section 57 of, and Schedule 11 to, the 1977 Act and section 49 of, and Schedule 10 to, the 1978 Act (maximum prices of medical supplies) are to cease to have effect in relation to health service medicines; but the powers conferred by sections 33 to 36 do not affect any other powers of the Secretary of State to control prices or profits.

(6) This subsection and subsections (7) and (8) apply for the interpretation of sections 33 to 37 and this section—

"health service" means any of the health services within the meaning of the 1977 Act, the 1978 Act or the Health and Personal Social Services (Northern Ireland) Order 1972,

"health service medicine" means a medicinal product used to any extent for the purposes of the health service,

"the industry body" means any body which appears to the Secretary of State appropriate to represent manufacturers and suppliers,

"manufacture" includes assemble and "manufacturer" means any person who manufactures health service medicines,

"medicinal product" has the meaning given by section 130 of the Medicines Act 1968,

"supplier" means any person who supplies health service medicines.

(7) References to contravention of a provision include failure to comply with it.

(8) References to supplying medicines include selling them.