

Status: Point in time view as at 01/07/2002. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2001, Part 1. (See end of Document for details)

SCHEDULES

SCHEDULE 5

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

NATIONAL HEALTH SERVICE

Health Services and Public Health Act 1968 (c. 46)

- 1 (1) The Health Services and Public Health Act 1968 shall be amended as follows.
- (2) In section 59 (extension of power of user by Crown of patented invention to user for certain health services)—
- (a) in subsection (1), after “pharmaceutical services,” insert “ local pharmaceutical services, ”; and
 - (b) after section 59(2A) insert—
 - “(2B) In subsection (1) the reference to local pharmaceutical services is a reference to local pharmaceutical services provided under—
 - (a) a pilot scheme established under section 28 of the Health and Social Care Act 2001;
 - (b) an LPS scheme established under Schedule 8A to the National Health Service Act 1977 (c. 49); or
 - (c) any corresponding provision of the law in force in the Isle of Man.”
- (3) In section 63 (provision of instruction for certain persons employed in health or welfare activities), after subsection (2)(ba) insert—
- “(bb) the provision of a local pharmaceutical service under a pilot scheme established under section 28 of the Health and Social Care Act 2001 or under an LPS scheme established under Schedule 8A to the 1977 Act or under any corresponding provision of the law in force in the Isle of Man and an activity involved in or connected with the provision of such a service;”.

Commencement Information

- II** Sch. 5 para. 1 partly in force; Sch. 5 para. 1 not in force at Royal Assent see s. 70(2); Sch. 5 para. 1 in force for W. at 1.7.2002 by [S.I. 2002/1475](#), [art. 2\(1\)](#), [Sch. Pt. 1](#)

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House of Commons Disqualification Act 1975 (c. 24)

- 2 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (which lists bodies of which all members are disqualified for membership of the House of Commons), for the entry relating to a Medical Practices Committee substitute—

“The Medical Practices Committee constituted under section 3 of the National Health Service (Scotland) Act 1978.”

Commencement Information

- I2** Sch. 5 para. 2 wholly in force at 1.7.2002; Sch. 5 para. 2 not in force at Royal Assent, see s. 70(2); Sch. 5 para. 2 in force for E. at 1.4.2002 by [S.I. 2002/1095](#), [art. 2\(3\)](#), [Sch.](#) (with transitional provisions in [arts. 3, 4](#)) (as amended (26.3.2002) by [S.I. 2002/1170](#), [art. 3](#)); Sch. 5 para. 2 in force for W. at 1.7.2002 by [S.I. 2002/1475](#), [art. 2\(1\)](#), [Sch. Pt. 1](#)

- 3 In Part 3 of Schedule 1 to that Act (which lists other disqualifying offices), at the appropriate place insert—

“President and any Deputy President of the Family Health Services Appeal Authority constituted under section 49S of the National Health Service Act 1977 (c. 49).”

Commencement Information

- I3** Sch. 5 para. 3 wholly in force at 1.7.2002; Sch. 5 para. 3 not in force at Royal Assent see s. 70(2); Sch. 5 para. 3 in force for E. for certain purposes at 1.10.2001 and otherwise for E. at 1.12.2001 by [S.I. 2001/3294](#), [arts. 1\(3\), 4\(1\)](#), [Sch.](#) (subject to transitional provisions in [art. 4\(2\)](#)); Sch. 5 para. 3 in force for W. at 1.7.2002 by [S.I. 2002/1475](#), [art. 2\(1\)](#), [Sch. Pt. 1](#); Sch. 5 para. 3 expressed to be in force for W. at 26.8.2002 by [S.I. 2002/1919](#), [art. 3\(1\)](#), [Sch. Pt. II](#) (subject to [art. 3\(2\)](#), [Sch. Pt. III](#))

Patents Act 1977 (c. 37)

- 4 In section 56 of the Patents Act 1977 (interpretation, etc. of provisions about Crown use), after subsection (4)(a)(ii) insert “, or

(iii) local pharmaceutical services provided under a pilot scheme established under section 28 of the Health and Social Care Act 2001 or an LPS scheme established under Schedule 8A to the National Health Service Act 1977 (c. 49), or under any corresponding provision of the law in force in the Isle of Man”.

Commencement Information

- I4** Sch. 5 para. 4 partly in force; Sch. 5 para. 4 not in force at Royal Assent see s. 70(2); Sch. 5 para. 4 in force for W. at 1.7.2002 by [S.I. 2002/1475](#), [art. 2\(1\)](#), [Sch. Pt. 1](#)

National Health Service Act 1977 (c. 49)

- 5 (1) The National Health Service Act 1977 shall be amended as follows.
 (2) Section 7 (Medical Practices Committee) is omitted.

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- (3) In section 17 (Secretary of State's directions: exercise of functions), for subsection (3) substitute—
- “(3) Nothing in any provision made by or under this or any other Act shall be read as affecting the generality of subsection (1) above.”
- (4) In section 29A (medical lists), in subsection (3), for paragraph (b) substitute—
- “(b) he is not disqualified from inclusion in all Health Authorities' medical lists by virtue of a national disqualification imposed on him by the FHSAA.”
- (5) In section 33 (distribution of general medical services), in subsection (1B), the words from “including, in particular,” to the end of the subsection are omitted.
- (6) Section 34 (regulations for Medical Practices Committee) is omitted.
- (7) In section 44 (local representative committees)—
- (a) in subsection (3)(a), for “list” substitute “ medical list ”;
 - (b) in subsection (3)(c), for “list” substitute “ list of dental practitioners and dental corporations undertaking to provide general dental services ”; and
 - (c) subsection (5)(b) and the word “and” preceding it are omitted.
- (8) Sections 46 to 49E (which together provide for the constitution and powers of the National Health Service Tribunal and other connected matters) and the heading preceding section 46 are omitted.
- (9) In section 85 (default powers), in subsection (1), omit paragraph (d).
- (10) In section 100 (payments of expenses of certain bodies)—
- (a) in subsection (1), omit paragraph (c); and
 - (b) for paragraph (d) substitute—
“(d) the FHSAA.”
- (11) In section 102 (allowances and remuneration for members of certain bodies), omit the following—
- (a) in subsection (1), paragraph (a)(ii), and
 - (b) in subsection (2), paragraph (a).
- (12) In section 103 (special arrangements as to payment of remuneration)—
- (a) in subsection (3), after “pharmaceutical services” insert “ or such local pharmaceutical services ”;
 - (b) in subsection (3)(a), after “of this Act” insert “ or by virtue of Schedule 8A to this Act ”; and
 - (c) after subsection (3) insert—
“(4) In subsection (3), “local pharmaceutical services” has the meaning given by paragraph 1(3) of Schedule 8A to this Act.
(5) In subsection (3)—
(a) the reference to local pharmaceutical services includes a reference to local pharmaceutical services provided under pilot schemes established under section 28 of the Health and Social Care Act 2001

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and, in that case, “local pharmaceutical services” has the meaning given by that section; and

(b) in respect of local pharmaceutical services provided under such schemes, the reference to Schedule 8A is a reference to that section.”

(13) In section 126 (orders and regulations, and directions)—

- (a) in subsection (1), after “orders” insert “ , rules ”;
- (b) in subsection (4), after “orders,” in both places where it appears, insert “ rules, ”;
- (c) after subsection (4) insert—

“(4A) Subsection (4) above applies to directions given under—

- (a) paragraph 10(1) of Schedule 5 to this Act,
- (b) paragraph 8(3) of Schedule 5A to this Act, or
- (c) paragraph 16(5) of Schedule 2 to the National Health Service and Community Care Act 1990,

as well as to directions given in accordance with section 18 above as mentioned in that subsection.”;

- (d) in subsection (5), after “that subsection” insert “ (other than a power to make rules) ”.

(14) In section 128 (interpretation), in the appropriate place, insert—

““terms of service” means the terms upon which by virtue of regulations a person undertakes to provide general medical services, general dental services, general ophthalmic services or pharmaceutical services.”

(15) In Schedule 5A to that Act (Primary Care Trusts: remuneration and pensions etc), in the cross-heading preceding paragraph 11, “ *of members* ” shall be added at the end.

(16) Schedule 9 (tribunal for purposes of section 46) is omitted.

(17) In Schedule 12A (expenditure of Health Authorities and Primary Care Trusts)—

- (a) in paragraph 7(1), after the definition of “pharmaceutical services” insert—

““local pharmaceutical services” has the meaning given by paragraph 1(3) of Schedule 8A to this Act;

“remuneration referable to the cost of drugs” includes (except in paragraph 1(2)(b) and subject to sub-paragraph (2)) remuneration payable to persons providing local pharmaceutical services”;

- (b) in paragraph 7(2), after “pharmaceutical services” insert “ or local pharmaceutical services ”;
- (c) after paragraph 7(3) insert—

“(4) In this paragraph references to local pharmaceutical services include references to local pharmaceutical services provided under pilot schemes established under section 28 of the Health and Social Care Act 2001, in which case that expression has the meaning given by that section.”

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Modifications etc. (not altering text)

- C1** Sch. 5 para. 5(10)(b) amended (temp. from 22.7.2002) by [The Health and Social Care Act 2001 \(Commencement No. 3\) \(Wales\) Order 2002 \(S.I. 2002/1919\)](#), art. 3(2), **Sch. Pt. III**

Commencement Information

- I5** Sch. 5 para. 5 partly in force; Sch. 5 para. 5 not in force at Royal Assent, see s. 70(2); Sch. 5 para. 5(10)(b)(13)(a)(b)(d) in force for E. for certain purposes at 1.10.2001 and otherwise for E. at 1.12.2001 by [S.I. 2001/3294](#), art. 4(1), **Sch.** (subject to art. 4(2)); Sch. 5 para. 5(1)(3) in force for E. for certain purposes at 22.10.2001 by [S.I. 2001/3619](#), art. 3(2); Sch. 5 para. 5(4)(8)(14)(16) in force for E. for certain purposes at 22.11.2001 and 14.12.2001 by [S.I. 2001/3738](#), art. 2(2)(4), **Sch. 1 Pt. II**, **Sch. 2** (subject to art. 2(5)(6)); Sch. 5 para. 5(2)(5)(6)(7)(c)(9)(10)(a) wholly in force and Sch. 5 para. 5(7)(a)(b) in force for E. at 1.4.2002 by [S.I. 2002/1095](#), art. 2(3), **Sch.** (with transitional provisions in arts. 3, 4) (as amended (26.3.2002) by [S.I. 2002/1170](#), art. 3); Sch. 5 para. 5(2)(7)(a)(b)(c)(8) in force for W. at 1.7.2002 by [S.I. 2002/1475](#), art. 2(1), **Sch. Pt. 1**; Sch. 5 para. 5(8)(16) in force for W. at 26.8.2002 by [S.I. 2002/1919](#), art. 2(1), **Sch. Pt. I** (subject to art. 2(2)(3)); Sch. 5 para. 5(10)(b)(13)(a)(b)(d) in force for W. at 26.8.2002 by [S.I. 2002/1919](#), art. 3(1), **Sch. Pt. II** (subject to art. 3(2), **Sch. Pt. III**)

Mental Health Act 1983 (c. 20)

- 6 (1) Section 134 of the Mental Health Act 1983 (correspondence of patients) shall be amended as follows.
- (2) In subsection (3), after paragraph (e) insert—
- “(ea) a provider of a patient advocacy and liaison service for the assistance of patients at the hospital and their families and carers;
- (eb) a provider of independent advocacy services for the patient;”.
- (3) After subsection (3) insert—
- “(3A) In subsection (3) above—
- (a) “patient advocacy and liaison service” means a service of a description prescribed by regulations made by the Secretary of State, and
- (b) “independent advocacy services” means services provided under arrangements under section 19A of the National Health Service Act 1977.”

Commencement Information

- I6** Sch. 5 para. 6 partly in force; Sch. 5 para. 6 not in force at Royal Assent see s. 70(2); Sch. 5 para. 6(1)(2)(3) in force for W. at 1.7.2002 by [S.I. 2002/1475](#), art. 2(1), **Sch. Pt. 1**

Copyright, Designs and Patents Act 1988 (c. 19)

- 7 In section 240 of the Copyright, Designs and Patents Act 1988 (Crown use of designs), after subsection (4)(b) insert “or
- (c) local pharmaceutical services provided under—
- (i) a pilot scheme established under section 28 of the Health and Social Care Act 2001; or

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(ii) an LPS scheme established under Schedule 8A to the National Health Service Act 1977 (c. 49).”

Commencement Information

I7 Sch. 5 para. 7 partly in force; Sch. 5 para. 7 not in force at Royal Assent see s. 70(2); Sch. 5 para. 7 in force for W. at 1.7.2002 by [S.I. 2002/1475](#), **art. 2(1)**, **Sch. Pt. 1**

National Health Service and Community Care Act 1990 (c. 48)

8 In section 4A of the National Health Service and Community Care Act 1990 (provision of certain services under NHS contracts), in subsection (3), in paragraph (a) of the definition of “ophthalmic services”, for “39(a)” substitute “39(1)(a)”.

Commencement Information

I8 [Sch. 5 para. 8](#) partly in force; [Sch. 5 para. 8](#) not in force at Royal Assent see s. 70(2); [Sch. 5 para. 8](#) in force for W. at 1.7.2002 by [S.I. 2002/1475](#), **art. 2(1)**, **Sch. Pt. 1**

Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)

9 In section 279 of the Trade Union and Labour Relations (Consolidation) Act 1992 (health service practitioners), after paragraph (b) insert “ or as a person providing local pharmaceutical services under a pilot scheme established by a Health Authority under section 28 of the Health and Social Care Act 2001 or under an LPS scheme established by a Health Authority under Schedule 8A to the National Health Service Act 1977 (c. 49) ; ”.

Commencement Information

I9 Sch. 5 para. 9 partly in force; Sch. 5 para. 9 not in force at Royal Assent see s. 70(2); Sch. 5 para. 9 in force for W. at 1.7.2002 by [S.I. 2002/1475](#), **art. 2(1)**, **Sch. Pt. 1**

Tribunals and Inquiries Act 1992 (c. 53)

10 In the Tribunals and Inquiries Act 1992, in Schedule 1 (tribunals under the supervision of the Council on Tribunals), in paragraph 33, for sub-paragraph (b) substitute—

“(b) the Family Health Services Appeal Authority constituted under section 49S of that Act;”.

Modifications etc. (not altering text)

C2 Sch. 5 para. 10 amended (temp. from 22.7.2002) by [The Health and Social Care Act 2001 \(Commencement No. 3\) \(Wales\) Order 2002 \(S.I. 2002/1919\)](#), **art. 3(2)**, **Sch. Pt. III**

Commencement Information

I10 Sch. 5 para. 10 wholly in force at 1.7.2002; Sch. 5 para. 10 not in force at Royal Assent, see s. 70(2); Sch. 5 para. 10 in force for E. for certain purposes at 1.10.2001 and otherwise for E. at 1.12.2001 by [S.I.](#)

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2001/3294, arts. 1(3), 4(1), Sch. (subject to transitional provisions in art. 4(2)); Sch. 5 para. 10 in force for W. at 1.7.2002 by S.I. 2002/1475, art. 2(1), Sch. Pt. 1; Sch. 5 para. 10 expressed to be in force for W. at 26.8.2002 by S.I. 2002/1919, art. 3(1), Sch. Pt. II (subject to art. 3(2), Sch. Pt. III)

National Health Service (Primary Care) Act 1997 (c. 46)

11 (1) The National Health Service (Primary Care) Act 1997 shall be amended as follows.

(2) In section 1 (pilot schemes)—

- (a) in subsection (2), after “dental services” insert “, and may not combine arrangements for the provision of personal medical services or personal dental services with arrangements for the provision of local pharmaceutical services under LPS schemes (within the meaning of paragraph 1(3) of Schedule 8A to the National Health Service Act 1997 or under pilot schemes made under section 28 of the Health and Social Care Act 2001 ”; and
- (b) in subsection (8), in the definition of “personal dental services”, after “general dental practitioner” insert “ (or, in England and Wales, a dental corporation) ”.

(3) In section 5 (approval of pilot schemes), for subsection (5) substitute—

“(5) In carrying out his functions under subsection (4) in relation to the distribution of general practitioners in Scotland, the Secretary of State must consult the Scottish Medical Practices Committee.”

(4) In section 21 (provision of personal medical or dental services), in subsection (2)(a) of the section 28C to be inserted into the 1977 Act, after “dental services” insert “, and may not combine arrangements for the provision of personal medical services or personal dental services with arrangements for the provision of local pharmaceutical services under LPS schemes (within the meaning of paragraph 1(3) of Schedule 8A to this Act) or under pilot schemes made under section 28 of the Health and Social Care Act 2001 ”.

Commencement Information

I11 Sch. 5 para. 11 partly in force; Sch. 5 para. 11 not in force at Royal Assent, see s. 70(2); Sch. 5 para. 11(3) in force for E. at 1.4.2002 by S.I. 2002/1095, art. 2(3), Sch. (with transitional provisions in arts. 3, 4) (as amended (26.3.2002) by S.I. 2002/1170, art. 3); Sch. 5 para. 11 in force for W. at 1.7.2002 by S.I. 2002/1475, art. 2(1), Sch. Pt. 1

Health Act 1999 (c. 8)

12 (1) The Health Act 1999 shall be amended as follows.

(2) In section 10 (which supersedes the provision about remuneration for services under Part 2 of the 1977 Act made by section 7 of the Health and Social Security Act 1984 (c. 48)), in subsection (1), for “sections 29(4) and 35(2)” in subsection (6) of the new section 43B of the 1977 Act, substitute “ section 35(2) ”.

(3) In section 66 (devolution), in subsection (5), omit the words “(ccc) sections 46 to 49E”.

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Commencement Information

- I12** Sch. 5 para. 12 partly in force; Sch. 5 para. 12 not in force at Royal Assent see s. 70(2); Sch. 5 para. 12(1) (2) in force for E. for certain purposes at 14.12.2001 by [S.I. 2001/3738](#), arts. 1(3), 2(3), **Sch. 1 Pt. III**

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Local Government Act 2000 (c. 22)

- 13 In section 32 of the Local Government Act 2000 (alternative arrangements), in subsection (3), after “Schedule 1” insert “, any provision made under section 7 of the Health and Social Care Act 2001 or any provisions of section 9 of, and Schedule 1 to, that Act”.

Freedom of Information Act 2000 (c. 36)

- 14 (1) In Schedule 1 to the Freedom of Information Act 2000 (public authorities for the purposes of the Act) after paragraph 45 insert—
- “45A Any person providing local pharmaceutical services under—
- (a) a pilot scheme established under section 28 of the Health and Social Care Act 2001; or
- (b) an LPS scheme established under Schedule 8A to the National Health Service Act 1977 (c. 49),
- in respect of information relating to the provision of those services.”

Commencement Information

- I13** Sch. 5 para. 14 partly in force; Sch. 5 para. 14 not in force at Royal Assent see s. 70(2); Sch. 5 para. 14 in force for W. at 1.7.2002 by [S.I. 2002/1475](#), **art. 2(1)**, **Sch. Pt. 1**

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