



# Health and Social Care (Community Health and Standards) Act 2003

## 2003 CHAPTER 43

### PART 1 **E+W**

#### NHS FOUNDATION TRUSTS

##### *Introductory*

#### <sup>F1</sup> **NHS foundation trusts** **E+W**

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##### **Textual Amendments**

- F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 4](#) (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

#### <sup>F12</sup> **Independent Regulator of NHS Foundation Trusts** **E+W**

.....

##### **Textual Amendments**

- F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 4](#) (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

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**F13 General duty of regulator** **E+W**

.....

**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

*Authorisation*

**F14 Applications by NHS trusts** **E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**F15 Other applications** **E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**F16 Authorisation of NHS foundation trusts** **E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**F17 Effect of authorisation** **E+W**

.....

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**F18 Amendments of constitution** **E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**F19 Variation of authorisation** **E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**F110 Register of NHS foundation trusts** **E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

*Financial matters*

**F111 Power of Secretary of State to give financial assistance** **E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

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**F1 12 Prudential borrowing code E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 4](#) (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**F1 13 Public dividend capital E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 4](#) (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

*Functions*

**F1 14 Authorised services E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 4](#) (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**F1 15 Private health care E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 4](#) (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**F1 16 Protection of property E+W**

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**Textual Amendments**

- F1 Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**F1 17 Financial powers** E+W

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**Textual Amendments**

- F1 Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**F1 18 General powers** E+W

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**Textual Amendments**

- F1 Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**F1 19 Information** E+W

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**Textual Amendments**

- F1 Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**F1 20 Entry and inspection of premises** E+W

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**Textual Amendments**

- F1 Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

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PROSPECTIVE

**F121 Fees E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**F122 Trust funds and trustees E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

*Failure*

**F123 Failing NHS foundation trusts E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**F124 Voluntary arrangements E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**F125 Dissolution etc. E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**F126 Sections 24 and 25: supplementary** **E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

*Mergers*

**F127 Mergers** **E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**F128 Section 27: supplementary** **E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

*Co-operation*

**F129 Co-operation between NHS bodies** **E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 4** (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

*Patient and public involvement*

**F1 30 Public involvement and consultation E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 4** (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**F1 31 Patients' Forums E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 4** (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**F1 32 Commission for Patient and Public Involvement in Health E+W**

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**Textual Amendments**

**F1** Ss. 1-32 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 4** (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

*Miscellaneous*

**33 Taxation E+W**

<sup>F2</sup>(1) .....

<sup>F3</sup>(2) .....

(3) In section 41 of the Value Added Tax Act 1994 (c. 23) (application to the Crown), in subsection (7), after “1978” there is inserted “ an NHS foundation trust ”.



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**Textual Amendments**

- F2** S. 33(1) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)
- F3** S. 33(2) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**Commencement Information**

- I1** S. 33 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

**34 Other amendments relating to NHS foundation trusts** **E+W**

Schedule 4 (which makes amendments relating to NHS foundation trusts) has effect.

**Commencement Information**

- I2** S. 34 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

**<sup>F4</sup>35 Conduct of elections** **E+W**

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**Textual Amendments**

- F4** Ss. 35-40 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**<sup>F4</sup>36 Offence** **E+W**

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**Textual Amendments**

- F4** Ss. 35-40 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**<sup>F4</sup>37 Representative membership** **E+W**

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**Textual Amendments**

- F4** Ss. 35-40 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

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#### <sup>F4</sup>38 **Audit** **E+W**

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##### Textual Amendments

- F4** Ss. 35-40 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with **Sch. 2 Pt. 1**, **Sch. 3 Pt. 1**)

#### <sup>F4</sup>39 **General duty of NHS foundation trusts** **E+W**

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##### Textual Amendments

- F4** Ss. 35-40 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with **Sch. 2 Pt. 1**, **Sch. 3 Pt. 1**)

### Supplementary

#### <sup>F4</sup>40 **Interpretation of Part 1** **E+W**

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##### Textual Amendments

- F4** Ss. 35-40 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with **Sch. 2 Pt. 1**, **Sch. 3 Pt. 1**)

## PART 2 **U.K.**

### STANDARDS

#### CHAPTER 1 **E+W**

### REGULATORY BODIES

#### <sup>F5</sup>41 **The Commission for Healthcare Audit and Inspection** **E+W**

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##### Textual Amendments

- F5** Ss. 41-44 repealed (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 36**, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), **Sch. 1 paras. 35(n), 36**

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**F542 The Commission for Social Care Inspection** **E+W**

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**Textual Amendments**

**F5** Ss. 41-44 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 36, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(n), 36

**F543 Transfer of property etc to CHAI and CSCI** **E+W**

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**Textual Amendments**

**F5** Ss. 41-44 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 36, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(n), 36

**F544 Abolition of former regulatory bodies** **E+W**

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**Textual Amendments**

**F5** Ss. 41-44 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 36, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(n), 36

**CHAPTER 2** **E+W**

NHS HEALTH CARE: INTRODUCTORY

**45 Quality in health care** **E+W**

- (1) It is the duty of each [<sup>F6</sup>Welsh] NHS body to put and keep in place arrangements for the purpose of monitoring and improving the quality of health care provided by and for that body.
- (2) In this Part “health care” means—
  - (a) services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness; and
  - (b) the promotion and protection of public health.
- (3) In subsection (2)(a), “illness” has the meaning given by [<sup>F7</sup>section 275 of the 2006 Act].
- [<sup>F8</sup>(4) In this Chapter references to the provision of health care for a body include in the case of an English NHS body references to the provision of health care in respect of which direct payments are made by that body under section 12A(1), or under regulations under section 12A(4), of the National Health Service Act 2006. ]

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#### Textual Amendments

- F6** Word in s. 45(1) inserted (1.4.2010) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 37](#); [S.I. 2010/708, art. 13\(e\)](#)
- F7** Words in s. 45(3) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 241](#) (with Sch. 3 Pt. 1)
- F8** S. 45(4) inserted (temp.) (19.1.2010) by [Health Act 2009 \(c. 21\), s. 40\(1\), Sch. 1 para. 5](#); [S.I. 2010/30, art. 2\(b\)](#)

#### Modifications etc. (not altering text)

- C1** S. 45 applied (1.4.2005) by [Health Protection Agency Act 2004 \(c. 17\), ss. 10\(2\), 12\(1\)](#); [S.I. 2005/121, art. 2\(2\)](#)
- C2** S. 45 functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\), regs. 1\(2\), 4, Sch.](#)

#### Commencement Information

- I3** S. 45 in force at 1.4.2004 by [S.I. 2004/759, art. 9](#)

### <sup>F9</sup>46 Standards set by Secretary of State **E+W**

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#### Textual Amendments

- F9** S. 46 repealed (1.4.2010) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 38, Sch. 15 Pt. 1](#); [S.I. 2010/708, art. 13\(e\)\(f\)](#)

### 47 Standards set by Assembly **E+W**

- (1) The Assembly may prepare and publish statements of standards in relation to the provision of health care by and for Welsh NHS bodies.
- (2) The Assembly must keep the standards under review and may publish amended statements whenever it considers it appropriate.
- (3) The Assembly must consult such persons as it considers appropriate—
  - (a) before publishing a statement under this section;
  - (b) before publishing an amended statement under this section which in the opinion of the Assembly effects a substantial change in the standards.
- (4) The standards set out in statements under this section are to be taken into account by every Welsh NHS body in discharging its duty under section 45.

#### Modifications etc. (not altering text)

- C3** S. 47(4) functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\), regs. 1\(2\), 4, Sch.](#)

#### Commencement Information

- I4** S. 47 in force at 1.4.2004 by [S.I. 2004/873, art. 2\(a\)](#)

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**F10 47A Code of practice relating to health care associated infections** **E+W**

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**Textual Amendments**

**F10** Ss. 47A-47C repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 39, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(o), 36

**F10 47B Consultation etc.** **E+W**

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**Textual Amendments**

**F10** Ss. 47A-47C repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 39, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(o), 36

**F10 47C Effect of code under section 47A** **E+W**

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**Textual Amendments**

**F10** Ss. 47A-47C repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 39, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(o), 36

**CHAPTER 3** **E+W**

NHS HEALTH CARE: FUNCTIONS OF CHAI

*Healthcare provided by and for NHS bodies*

**F11 48 Introductory** **E+W**

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 40, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(p), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F11 49 National performance data** **E+W**

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F1150 Annual reviews E+W**

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F1151 Reviews: England and Wales E+W**

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F1152 Reviews and investigations: England E+W**

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F1153 Failings E+W**

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

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**F11 53A Failings in connection with code under section 47A: improvement notices** E  
+W

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F11 53B Code of practice: action by CHAI following service of improvement notice** E  
+W

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F11 54 Functions relating to Secretary of State and Assembly** E+W

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F11 55 Reviews of data** E+W

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F11 56 Co-ordination of reviews** E+W

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(p\), 36; S.I. 2010/807, art. 2\(1\), Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

*Other functions*

**F1157 Studies as to economy, efficiency etc E+W**

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(p\), 36; S.I. 2010/807, art. 2\(1\), Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F1158 Additional functions E+W**

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(p\), 36; S.I. 2010/807, art. 2\(1\), Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

*Supplementary*

**F1159 Criteria E+W**

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(p\), 36; S.I. 2010/807, art. 2\(1\), Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F1160 Provision of material E+W**

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(p\), 36; S.I. 2010/807, art. 2\(1\), Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F11 61 Co-operation between CHAI and the regulator E+W**

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(p\), 36; S.I. 2010/807, art. 2\(1\), Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F11 62 Fees E+W**

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(p\), 36; S.I. 2010/807, art. 2\(1\), Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F11 63 Fees: Wales E+W**

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(p\), 36; S.I. 2010/807, art. 2\(1\), Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F11 64 Reports and information E+W**

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 40, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(p\), 36; S.I. 2010/807, art. 2\(1\), Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

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**F11 65 Co-operation between CHAI and the Audit Commission** E+W

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**Textual Amendments**

**F11** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F12 66 Right of entry** E+W

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**Textual Amendments**

**F12** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F13 67 Right of entry: supplementary** E+W

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**Textual Amendments**

**F13** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F14 68 Power to require documents and information etc** E+W

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**Textual Amendments**

**F14** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 40](#), [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), [Sch. 1 paras. 35\(p\), 36](#); [S.I. 2010/807](#), art. 2(1), [Sch. 1 paras. 17, 18 \(with Pt. 3\)](#)

**F15 69 Power to require explanation** E+W

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#### Textual Amendments

**F15** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 40, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(p), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

### <sup>F16</sup> 69A Provision of information by Auditor General for Wales **E+W**

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#### Textual Amendments

**F16** Ss. 48-69A repealed (1.4.2009 except in relation to ss. 66-69A, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 40, Sch. 15 Pt. 1; [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(p), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

## CHAPTER 4 **E+W**

### NHS HEALTH CARE: FUNCTIONS OF NATIONAL ASSEMBLY FOR WALES

#### *Reviews and investigations*

### 70 **Reviews and investigations relating to Wales** **E+W**

- (1) The Assembly has the function of conducting reviews of, and investigations into, the provision of health care by and for Welsh NHS bodies.
- (2) The Assembly may in particular under this section conduct—
  - (a) a review of the overall provision of health care by and for Welsh NHS bodies;
  - (b) a review of the overall provision of a particular kind of health care by and for Welsh NHS bodies;
  - (c) a review of, or investigation into, the provision of any health care by or for a particular Welsh NHS body.
- (3) The Assembly has the function of conducting reviews of the arrangements made by Welsh NHS bodies for the purpose of discharging their duty under section 45.

[<sup>F17</sup>(3A) Before conducting a review under this section the Assembly must—

- (a) consult the Auditor General for Wales, and
- (b) take into account any relevant work done or being done by the Auditor General for Wales.]
- (4) In exercising its functions under this section in relation to any health care the Assembly shall be concerned in particular with—
  - (a) the availability of, and access to, the health care;
  - (b) the quality and effectiveness of the health care;
  - (c) the financial or other management of the health care and the economy and efficiency of its provision;

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- (d) the availability and quality of information provided to the public about the health care;
  - (e) the need to safeguard and promote the rights and welfare of children; and
  - (f) the effectiveness of measures taken for the purpose specified in paragraph (e) by the body in question and any person who provides, or is to provide, health care for that body,
- and must take into account the standards set out in statements published under section 47.
- (5) For the purposes of this section the Assembly may carry out an inspection of—
- (a) any Welsh NHS body;
  - (b) any other person who provides, or is to provide, health care for a Welsh NHS body (in Wales or elsewhere).
- (6) Where the Assembly conducts a review under this section it must publish a report.

#### Textual Amendments

**F17** S. 70(3A) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, [Sch. 2 para. 60](#); [S.I. 2005/558](#), art. 2, [Sch. 1](#)

#### Commencement Information

**I5** S. 70 in force at 1.4.2004 by [S.I. 2004/873](#), [art. 2\(b\)](#)

## 71 Reporting to Secretary of State and regulator **E+W**

- (1) The Assembly must report to the Secretary of State where, after conducting a review or investigation under section 70, it is of the view that—
- (a) there are significant failings in relation to the provision of health care by or for an English NHS body or cross-border SHA;
  - (b) there are significant failings in the running of an English NHS body or cross-border SHA; or
  - (c) there are significant failings in the running of any body, or the practice of any individual, providing health care for an English NHS body or cross-border SHA.
- (2) A report under subsection (1) may include a recommendation that, with a view to remedying the failings, the Secretary of State take special measures in relation to—
- (a) the English NHS body or cross-border SHA; and
  - (b) in a case falling within paragraph (c) of subsection (1), any person, other than a Welsh NHS body, referred to in that paragraph.
- (3) The Assembly must report to the regulator where, after conducting a review or investigation under section 70, it is of the view that—
- (a) there are significant failings in relation to the provision of health care by or for an NHS foundation trust;
  - (b) there are significant failings in the running of an NHS foundation trust; or
  - (c) there are significant failings in the running of any body, or the practice of any individual, providing health care for an NHS foundation trust.

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- (4) A report under subsection (3) may include a recommendation that, with a view to remedying the failings, the regulator take special measures in relation to the NHS foundation trust.
- (5) A report under this section must give the Assembly's reasons for its view and for any recommendation made.

#### Commencement Information

**I6** S. 71 in force at 1.4.2004 by S.I. 2004/873, art. 2(b)

### Ancillary powers

#### 72 Right of entry **E+W**

- (1) A person authorised to do so by the Assembly may, if the Assembly considers it necessary or expedient for the purposes of this Chapter, at any reasonable time enter and inspect—
  - (a) any premises owned or controlled by a Welsh NHS body;
  - (b) any other premises used, or proposed to be used, for any purpose connected with—
    - (i) the provision of health care by or for a Welsh NHS body; or
    - (ii) the discharge of any of the functions of a Welsh NHS body.
- (2) A person who proposes to exercise any power of entry or inspection conferred by this section must if so required produce some duly authenticated document showing his authority to exercise the power.

#### Commencement Information

**I7** S. 72 in force at 1.4.2004 by S.I. 2004/873, art. 2(b)

#### 73 Right of entry: supplementary **E+W**

- (1) A person authorised by virtue of section 72 to enter and inspect premises may, if he considers it necessary or expedient for the purposes of this Chapter—
  - (a) inspect, take copies of and remove from the premises any documents or records (including personal records);
  - (b) inspect any other item and remove it from the premises;
  - (c) interview in private—
    - (i) any person working at the premises;
    - (ii) any person receiving health care there who consents to be interviewed; and
  - (d) make any other examination into the state and management of the premises and treatment of persons receiving health care there.
- (2) The power in subsection (1)(a) includes—
  - (a) power to require any person holding or accountable for documents or records kept on the premises to produce them; and

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- (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.
- (3) A person authorised by virtue of subsection (1)(a) to inspect any records is entitled to have access to, and to check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.
- (4) A person authorised by virtue of section 72 to enter and inspect any premises may—
  - (a) require any person to afford him such facilities and assistance with respect to matters within the person’s control as are necessary to enable him to exercise his powers under section 72 or this section; and
  - (b) take such measurements and photographs and make such recordings as he considers necessary to enable him to exercise those powers.
- (5) Any person who without reasonable excuse—
  - (a) obstructs the exercise of any power conferred by section 72 or this section, or
  - (b) fails to comply with any requirement of section 72 or this section,
 is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### Commencement Information

**I8** S. 73 in force at 1.4.2004 by [S.I. 2004/873](#), [art. 2\(b\)](#)

## 74 Power to require documents and information **E+W**

- (1) The Assembly may at any time require any person specified in subsection (2) to provide it with any information, documents, records (including personal records) or other items—
  - (a) which relates or relate to—
    - (i) the provision of health care by or for a Welsh NHS body; or
    - (ii) the discharge of any of the functions of a Welsh NHS body; and
  - (b) which the Assembly considers it necessary or expedient to have for the purposes of this Chapter.
- (2) The persons referred to in subsection (1) are—
  - (a) the Welsh NHS body;
  - (b) any person providing health care for, or exercising functions of, the Welsh NHS body;
  - (c) a local authority in Wales.
- (3) The power in subsection (1) to require the provision of records includes, in relation to records kept by means of a computer, power to require the provision of the records in legible form.
- (4) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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**Commencement Information**

**I9** S. 74 in force at 1.4.2004 by S.I. 2004/873, **art. 2(b)**

**75 Power to require explanation E+W**

- (1) The Assembly may by regulations make provision requiring prescribed persons to provide to the Assembly, or to persons authorised by it, an explanation of—
  - (a) any documents, records or items inspected, copied or provided under sections 72 to 74,
  - (b) any information provided under those sections, or
  - (c) any matters which are the subject of the exercise of any function of the Assembly under section 70, and
 in circumstances where the Assembly considers the explanation necessary or expedient for the purposes of this Chapter.
- (2) Regulations under subsection (1) may require explanations to be provided at such times and places as may be specified by the Assembly.
- (3) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**Commencement Information**

**I10** S. 75 partly in force; s. 75 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I11** S. 75 in force at 1.4.2004 in so far as not already in force by S.I. 2004/873, **art. 2(b)**

**CHAPTER 5 E+W**

**SOCIAL SERVICES: FUNCTIONS OF CSCI**

*Provision of social services*

**<sup>F18</sup>76 Introductory E+W**

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**Textual Amendments**

**F18** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**<sup>F18</sup>77 Information and advice E+W**

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**Textual Amendments**

**F18** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1878 Review of studies and research E+W**

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**Textual Amendments**

**F18** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1879 Annual reviews E+W**

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**Textual Amendments**

**F18** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1880 Other reviews and investigations E+W**

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**Textual Amendments**

**F18** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1881 Failings E+W**

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**Textual Amendments**

**F18** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)



*Status:* Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.

*Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Other functions*

**F1882 Studies as to economy, efficiency etc** **E+W**

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**Textual Amendments**

**F18** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1883 Joint working with Audit Commission** **E+W**

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**Textual Amendments**

**F18** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1884 Additional functions** **E+W**

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**Textual Amendments**

**F18** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

*Supplementary*

**F1885 Criteria** **E+W**

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**Textual Amendments**

**F18** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F1886 Fees** **E+W**

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**Textual Amendments**

**F18** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F18 87 Reports and information** **E+W**

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**Textual Amendments**

**F18** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F19 88 Right of entry** **E+W**

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**Textual Amendments**

**F19** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F20 89 Right of entry: supplementary** **E+W**

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**Textual Amendments**

**F20** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F21 90 Power to require information etc** **E+W**

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**Textual Amendments**

**F21** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

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**F22 91 Power to require explanation** **E+W**

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**Textual Amendments**

**F22** Ss. 76-91 repealed (1.4.2009 except in relation to ss. 88-91, 6.4.2010 in so far as not already in force) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 41, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(q), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**CHAPTER 6** **E+W**

SOCIAL SERVICES: FUNCTIONS OF NATIONAL ASSEMBLY FOR WALES

**Modifications etc. (not altering text)**

**C4** Pt. 2 Ch. 6 applied (1.10.2006) by Children Act 2004 (c. 31), **ss. 30**, 67(3); S.I. 2006/885, art. 2(4)(a)

*Provision of social services*

**92 General function** **E+W**

The Assembly has the general function of encouraging improvement in the provision of Welsh local authority social services.

**Commencement Information**

**I12** S. 92 in force at 1.4.2004 by S.I. 2004/873, **art. 2(c)**

**93 Reviews of studies and research** **E+W**

- (1) The Assembly may review—
  - (a) studies and research undertaken by others in relation to the provision of Welsh local authority social services;
  - (b) the methods used in such studies and research; and
  - (c) the validity of conclusions drawn from such studies and research.
- (2) Where the Assembly conducts a review under this section it must publish such report as it considers appropriate.

**Commencement Information**

**I13** S. 93 in force at 1.4.2004 by S.I. 2004/873, **art. 2(c)**

**94 Reviews and investigations** **E+W**

- (1) The Assembly has the function of conducting reviews of, and investigations into, the way in which local authorities in Wales discharge their social services functions.

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- (2) The Assembly may in particular under this section conduct—
  - (a) a review of the overall provision of Welsh local authority social services;
  - (b) a review of the provision of any Welsh local authority social service of a particular description; or
  - (c) a review of, or investigation into, the provision of any Welsh local authority social service by a particular person or persons.
- (3) The Assembly may in a review under subsection (2)—
  - (a) assess performance against criteria;
  - (b) award performance ratings.
- (4) For the purposes of this section the Assembly may carry out an inspection of—
  - (a) any local authority in Wales;
  - (b) any other person providing a Welsh local authority social service.
- (5) Where the Assembly conducts a review or investigation under this section, it must publish a report.
- (6) The Assembly may by regulations require a local authority in Wales to pay a fee to the Assembly in respect of the exercise of the Assembly’s function under this section in relation to the functions referred to in section 43(3)(a) and (b) of the Care Standards Act 2000 (c. 14) (adoption and fostering functions).
- (7) A fee under this section shall be of such amount, and shall be payable at such a time, as may be specified in the regulations.
- (8) A fee payable by virtue of this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

#### Commencement Information

**I14** S. 94 partly in force; s. 94 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I15** S. 94(1)-(5) in force at 1.4.2004 by S.I. 2004/873, art. 2(c)

## 95 Studies as to economy, efficiency etc **E+W**

- (1) The Assembly has the function of promoting or undertaking comparative or other studies designed to enable it to make recommendations—
  - (a) for improving economy, efficiency and effectiveness in the discharge by local authorities in Wales of their social services functions;
  - (b) for improving the management of such local authorities in the discharge of those functions.
- (2) The Assembly may also promote or undertake studies designed to enable it to prepare reports as to the impact of the operation of any particular statutory provisions on economy, efficiency and effectiveness in the discharge by local authorities in Wales of their social services functions.
- (3) The Assembly must publish or otherwise make available—
  - (a) any recommendations made by it under subsection (1); and
  - (b) a report on the result of any studies under this section.

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- (4) The Assembly and the Audit Commission must co-operate with each other with respect to the exercise of their respective functions under this section and sections 33 and 34 of the Audit Commission Act 1998 (c. 18).

#### Commencement Information

**I16** S. 95 in force at 1.4.2004 by S.I. 2004/873, art. 2(c)

#### [<sup>F23</sup>96 Additional functions **E+W**

- (1) The Assembly shall have such additional functions in relation to the provision of Welsh local authority social services as—
- (a) correspond to functions within subsection (2), and
  - (b) are specified by the Assembly in regulations.
- (2) The functions within this subsection are—
- [<sup>F24</sup>(a) functions of the Care Quality Commission under Part 1 of the Health and Social Care Act 2008, and]
  - (b) functions relating to the provision of relevant services and assigned to Her Majesty's Chief Inspector of Education, Children's Services and Skills under section 118(4) of the Education and Inspections Act 2006.
- (3) In subsection (2)(b) “ relevant services ” means services which immediately before the coming into force of Chapter 4 of Part 8 of the Education and Inspections Act 2006 were English local authority social services for the purposes of this Part of this Act. ]

#### Textual Amendments

**F23** S. 96 substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 88](#); S.I. 2007/935, art. 5(gg)

**F24** S. 96(2)(a) substituted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 42](#); S.I. 2009/462, art. 2(1), Sch. 1 para. 35(r)

#### 97 General considerations **E+W**

- (1) This section applies for the purpose of the exercise by the Assembly of its functions—
- (a) under sections 92 to 95; and
  - (b) under regulations under section 96.
- (2) The Assembly shall be concerned in particular with—
- (a) the availability of, and access to, the services;
  - (b) the quality and effectiveness of the services;
  - (c) the management of the services;
  - (d) the economy and efficiency of their provision and their value for money;
  - (e) the availability and quality of information provided to the public about the services;
  - (f) the need to safeguard and promote the rights and welfare of children; and
  - (g) the effectiveness of measures taken by local authorities for the purpose specified in paragraph (f).

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#### Commencement Information

**I17** S. 97 in force at 1.4.2004 by S.I. 2004/873, art. 2(c)

### Ancillary powers

#### 98 Right of entry **E+W**

- (1) A person authorised to do so by the Assembly may, if the Assembly considers it necessary or expedient for the purposes of this Chapter, at any reasonable time enter and inspect—
  - (a) any premises owned or controlled by a local authority in Wales;
  - (b) any premises falling within subsection (2), other than premises used wholly or mainly as a private dwelling.
- (2) The premises referred to in subsection (1)(b) are premises—
  - (a) which are used, or proposed to be used, by any person in connection with the provision of a Welsh local authority social service; or
  - (b) which the Assembly reasonably believes to be so used, or proposed to be so used.
- (3) A person who proposes to exercise any power of entry or inspection conferred by this section must if so required produce some duly authenticated document showing his authority to exercise the power.

#### Commencement Information

**I18** S. 98 in force at 1.4.2004 by S.I. 2004/873, art. 2(c)

#### 99 Right of entry: supplementary **E+W**

- (1) A person authorised by virtue of section 98 to enter and inspect premises may, if he considers it necessary or expedient for the purposes of this Chapter—
  - (a) inspect, take copies of and remove from the premises any documents or records (including personal records) relating to the discharge by the local authority of its social services functions;
  - (b) inspect any other item and remove it from the premises;
  - (c) interview in private—
    - (i) any person working at the premises; or
    - (ii) any person accommodated or cared for there who consents to be interviewed; and
  - (d) make any other examination into the state and management of the premises and treatment of persons accommodated or cared for there.
- (2) The power in subsection (1)(a) includes—
  - (a) power to require any person holding or accountable for documents or records kept on the premises to produce them; and

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- (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.
- (3) A person authorised by virtue of subsection (1)(a) to inspect any records is entitled to have access to, and to check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.
- (4) A person authorised by virtue of section 98 to enter and inspect premises may—
- (a) require any person to afford him such facilities and assistance with respect to matters within the person’s control as are necessary to enable him to exercise his powers under section 98 or this section;
  - (b) take such measurements and photographs and make such recordings as he considers necessary to enable him to exercise those powers.
- (5) Any person who without reasonable excuse—
- (a) obstructs the exercise of any power conferred by section 98 or this section, or
  - (b) fails to comply with any requirement of section 98 or this section,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### Commencement Information

**I19** S. 99 in force at 1.4.2004 by S.I. 2004/873, art. 2(c)

## 100 Power to require information **E+W**

- (1) The Assembly may at any time require any person specified in subsection (2) to provide it with any information, documents, records (including personal records) or other items—
- (a) which relates or relate to the discharge by a local authority in Wales of its social services functions; and
  - (b) which the Assembly considers it necessary or expedient to have for the purpose of any of its functions under this Chapter.
- (2) The persons referred to in subsection (1) are—
- (a) the local authority;
  - (b) a person providing a Welsh local authority social service for the authority; or
  - (c) any [<sup>F25</sup>Welsh NHS body or cross-border SHA].
- (3) The power in subsection (1) to require the provision of information includes, in relation to records kept by means of a computer, power to require the provision of the records in legible form.
- (4) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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#### Textual Amendments

**F25** Words in s. 100(2)(c) substituted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 43](#); S.I. 2009/462, art. 2(1), Sch. 1 para. 35(r)

#### Commencement Information

**I20** S. 100 in force at 1.4.2004 by [S.I. 2004/873](#), [art. 2\(c\)](#)

### 101 Power to require explanation **E+W**

- (1) The Assembly may by regulations make provision requiring prescribed persons to provide to the Assembly, or to persons authorised by it, an explanation of—
- any documents, records or items inspected, copied or produced under sections 98 to 100,
  - any information provided under those sections, or
  - any matters which are the subject of the exercise of any functions of the Assembly under this Chapter,
- in cases where the Assembly considers the explanation necessary or expedient for the purposes of this Chapter.
- (2) Regulations under subsection (1) may require explanations to be provided at such times and places as may be specified by the Assembly.
- (3) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### Commencement Information

**I21** [S. 101](#) partly in force; [s. 101](#) in force at Royal Assent for certain purposes, see [s. 199\(1\)\(4\)](#)

**I22** [S. 101](#) in force at 1.4.2004 in so far as not already in force by [S.I. 2004/873](#), [art. 2\(c\)](#)

## CHAPTER 7 **E+W**

### FUNCTIONS UNDER THE CARE STANDARDS ACT 2000

#### *Functions of CHAI and CSCI*

### <sup>F26</sup> 102 Transfer of functions to CHAI and CSCI **E+W**

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#### Textual Amendments

**F26** Ss. 102-104 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 44](#), [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(r), 36



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**F26 103 General functions of CHAI E+W**

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**Textual Amendments**

**F26** Ss. 102-104 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 44, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(r), 36

**F26 104 General functions of CSCI E+W**

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**Textual Amendments**

**F26** Ss. 102-104 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 44, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(r), 36

**105 Fees E+W**

(1) The Care Standards Act 2000 (c. 14) is amended as follows.

(2) After section 113 insert—

**“113A Fees payable under Part 2**

(1) The CHAI and the CSCI may each from time to time make and publish provision determining the amount of any fee payable to it under Part 2.

(2) Provision under subsection (1) may include provision—

(a) for different amounts to be payable in different cases, or classes of case;

(b) for different amounts to be payable by persons of different descriptions.

(3) Before the CHAI or the CSCI makes any provision under subsection (1) it must consult such bodies as appear to it to be representative of the persons liable to pay the fee.

(4) No provision may be made under subsection (1) without the consent of the Secretary of State.

(5) If the Secretary of State considers it necessary or desirable to do so, he may by regulations make provision determining the amount of a fee payable to the CHAI or the CSCI under Part 2 instead of the amount for which provision is made under subsection (1).

(6) Before making any regulations under subsection (5) in respect of fees payable to the CHAI or the CSCI, the Secretary of State shall consult that body and such other persons as appear to him to be appropriate.”

(3) In section 12 (applications for registration), in subsection (2), for “a fee of the prescribed amount” substitute “ a fee of the amount determined under section 113A,

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where the registration authority is the CHAI or the CSCI, or of the prescribed amount, where the registration authority is the Assembly.”

- (4) In section 15 (other applications), in subsection (3) for “a fee of such amount as may be prescribed” substitute “a fee of—
- (a) the amount determined under section 113A, where the registration authority is the CHAI or the CSCI; or
  - (b) the prescribed amount, where the registration authority is the Assembly.”
- (5) In that section, in subsection (5)—
- (a) for “subsection (3)” substitute “ subsection (3)(b) ”; and
  - (b) for “the registration authority” substitute “ the Assembly ”.
- (6) In section 16 (regulations about registration), for subsection (3) substitute—
- “(3) Persons registered under this Part must also pay to the registration authority, at such time as may be prescribed, an annual fee—
- (a) of such amount as may be determined under section 113A, where the registration authority is the CHAI or the CSCI; and
  - (b) of such amount as may be prescribed, where the registration authority is the Assembly.”
- (7) In section 22(7)(i) (fees in respect of notification of variation of corporate ownership etc), for the words from “of a fee” to the end substitute “, in respect of any notification required to be made by virtue of paragraph (h), of a fee of—
- (i) such amount as may be determined under section 113A, where notification is made to the CHAI or the CSCI; or
  - (ii) the prescribed amount, where notification is made to the Assembly”.

#### Commencement Information

- I23** S. 105 partly in force; s. 105 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I24** S. 105(1) in force at 30.10.2005 for specified purposes for E. by [S.I. 2005/2925](#), [art. 2\(1\)\(b\)](#)
- I25** S. 105(1) in force at 1.4.2006 for specified purposes by [S.I. 2005/2925](#), [art. 2\(2\)](#)
- I26** S. 105(1) in force at 27.6.2006 for specified purposes for E. by [S.I. 2006/1680](#), [art. 2\(1\)](#)
- I27** S. 105(1)(6) in force at 1.8.2006 in so far as not already in force by [S.I. 2006/1680](#), [art. 2\(2\)\(b\)](#)
- I28** S. 105(2) in force at 30.10.2005 for specified purposes for E. by [S.I. 2005/2925](#), [art. 2\(1\)\(b\)](#)
- I29** S. 105(3)-(7) in force at 1.4.2006 by [S.I. 2005/2925](#), [art. 2\(2\)](#)
- I30** S. 105(3)-(5)(7) in force at 1.8.2006 in so far as not already in force by [S.I. 2006/1680](#), [art. 2\(2\)\(a\)](#)
- I31** S. 105(6) in force at 27.6.2006 for specified purposes for E. by [S.I. 2006/1680](#), [art. 2\(1\)](#)

#### Miscellaneous

#### 106 Meaning of “independent medical agency” **E+W**

In section 2(5) of the Care Standards Act 2000 (c. 14) (an “independent medical agency” does not include an independent clinic), after “clinic” insert “ or an independent hospital ”.

**Status:** Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.

Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I32** S. 106 in force at 1.4.2004 by S.I. 2004/759, art. 3(1)

**I33** S. 106 in force at 1.4.2004 for W. by S.I. 2004/873, art. 2(e)

### 107 Children’s homes providing secure accommodation **E+W**

- (1) In section 4 of the Care Standards Act 2000 (c. 14) (basic definitions), in subsection (8) (a) (references to a description of establishment), after “children’s home” insert “, a children’s home providing accommodation for the purpose of restricting liberty,”.
- (2) In section 22 of that Act (regulations), in subsection (8) (regulations relating to children’s homes)—
  - (a) omit paragraph (a), and
  - (b) in paragraph (b), for “mentioned in paragraph (a)” substitute “ of restricting liberty ”.

#### Commencement Information

**I34** S. 107 in force at 1.4.2006 for W. by S.I. 2005/3285, art. 2(2)(c)

### 108 Information and inspection **E+W**

- (1) Section 31 of the Care Standards Act 2000 (inspections by persons authorised by registration authority) is amended as follows.
- (2) After subsection (1), insert—
 

“(1A) The power under subsection (1) to require the provision of information includes—

  - (a) power to require the provision of copies of any documents or records (including medical and other personal records); and
  - (b) in relation to records kept by means of a computer, power to require the provision of the records in legible form.”
- (3) In subsection (3)—
  - (a) in paragraph (b), for “(other than medical records)” substitute “ (including medical and other personal records) ”; and
  - (b) in paragraph (d), for “employed” substitute “ working ”.
- (4) In subsection (6), omit “and inspect any medical records relating to his treatment in the establishment”.

#### Commencement Information

**I35** S. 108 in force at 1.4.2004 for W. by S.I. 2004/873, art. 2(e)

**I36** S. 108 in force at 1.4.2004 by S.I. 2004/759, art. 5(2)(a)

*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.*

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## 109 Assembly: duties relating to children **E+W**

In section 8 of the Care Standards Act 2000 (general functions of the Assembly), at the end insert—

- “(6) The Assembly must have particular regard to the need to safeguard and promote the rights and welfare of children in the exercise of—
- (a) its functions exercisable by virtue of section 5(b) and subsections (1) to (3) of this section; and
  - (b) any other functions exercisable by the Assembly corresponding to functions exercisable by the CSCI in relation to England.”

### Commencement Information

**I37** S. 109 in force at 1.4.2004 by S.I. 2004/873, art. 2(d)

## CHAPTER 8 **E+W**

### OTHER FUNCTIONS OF CSCI

## <sup>F27</sup> 110 Boarding schools and colleges **E+W**

### Textual Amendments

**F27** S. 110 repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 14 para. 89, Sch. 18 Pt. 5; S.I. 2007/935, art. 5(gg)(ii)

## 111 Boarding schools and colleges: reports **E+W**

In section 87 of the Children Act 1989, after subsection (9) insert—

- “(9A) Where the Commission or the National Assembly for Wales exercises the power conferred by subsection (5) in relation to a child, it must publish a report on whether the child’s welfare is adequately safeguarded and promoted while he is accommodated by the school or college.
- (9B) Where the Commission or the National Assembly for Wales publishes a report under this section, it must—
- (a) send a copy of the report to the school or college concerned; and
  - (b) make copies of the report available for inspection at its offices by any person at any reasonable time.
- (9C) Any person who requests a copy of a report published under this section is entitled to have one on payment of such reasonable fee (if any) as the Commission or the National Assembly for Wales (as the case may be) considers appropriate.”

*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.*

*Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Commencement Information**

**I38** S. 111 in force at 1.4.2004 by S.I. 2004/759, art. 7

**I39** S. 111 in force at 1.4.2004 for W. by S.I. 2004/873, art. 2(e)

<sup>F28</sup> **112 Secure training centres** **E+W**

.....

**Textual Amendments**

**F28** S. 112 repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 14 para. 90, Sch. 18 Pt. 5; S.I. 2007/935, art. 5(gg)(ii)

**CHAPTER 9** **E+W**

COMPLAINTS

**113 Complaints about health care** **E+W**

- (1) The Secretary of State may by regulations make provision about the handling and consideration of complaints made under the regulations about—
  - (a) the exercise of any of the functions of an English NHS body or a cross-border SHA;
  - (b) the provision of health care by or for such a body;
  - (c) the provision of services by such a body or any other person in pursuance of arrangements made by the body under [<sup>F29</sup>section 75 of the National Health Service Act 2006 or section 33 of the National Health Service (Wales) Act 2006] in relation to the exercise of the health-related functions of a local authority.
- (2) The Assembly may by regulations make provision about the handling and consideration of complaints made under the regulations about—
  - (a) the exercise of any of the functions of a Welsh NHS body;
  - (b) the provision of health care by or for a Welsh NHS body;
  - (c) the provision of services by a Welsh NHS body or any other person in pursuance of arrangements made by the body under section 31 of the Health Act 1999 in relation to the exercise of the health-related functions of a local authority.
- (3) Regulations under this section may provide for a complaint to be considered by one or more of the following—
  - (a) an NHS body;
  - <sup>F30</sup>(b) .....
  - (c) an independent lay person;
  - (d) an independent panel established under the regulations;
  - (e) any other person or body.

*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.*

*Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) Regulations under this section may make provision for a complaint or any matter raised by a complaint—
- (a) [<sup>F31</sup>in the case of regulations under subsection (1),] to be referred to a Health Service Commissioner for him to consider whether to investigate the complaint or matter under the Health Service Commissioners Act 1993 (c. 46) (and to be treated by him as a complaint duly referred to him under section 10 of that Act);
  - [<sup>F32</sup>(aa) in the case of regulations under subsection (2), to be referred to the Public Services Ombudsman for Wales for him to consider whether to investigate the complaint or matter under the Public Services Ombudsman (Wales) Act 2005 (and to be treated by him as a complaint duly referred to him under section 2(3) of that Act);]
  - (b) to be referred to any other person or body for him or it to consider whether to take any action otherwise than under the regulations.

#### Textual Amendments

- F29** Words in s. 113(1)(c) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 242](#) (with Sch. 3 Pt. 1)
- F30** S. 113(3)(b) repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 45, Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(r\), 36](#)
- F31** Words in s. 113(4)(a) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 6 para. 75\(a\); S.I. 2005/2800, art. 5\(1\)\(3\)](#)
- F32** S. 113(4)(aa) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 6 para. 75\(b\); S.I. 2005/2800, art. 5\(1\)\(3\)](#)

#### Commencement Information

- I40** S. 113 partly in force; s. 113 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I41** S. 113(1)(3)(4) in force at 1.9.2006 for E. in so far as not already in force by [S.I. 2006/1680, art. 3\(a\)](#)

## 114 Complaints about social services E+W

- (1) The Secretary of State may by regulations make provision about the handling and consideration of complaints made under the regulations about—
- (a) the discharge by a local authority in England of any of its social services functions;
  - (b) the provision of services by another person pursuant to arrangements made by such an authority in the discharge of those functions;
  - (c) the provision of services by such an authority or any other person in pursuance of arrangements made by the authority under [<sup>F33</sup>section 75 of the National Health Service Act 2006 or section 33 of the National Health Service (Wales) Act 2006] in relation to the functions of an NHS body (within the meaning of that section).
- (2) Regulations under subsection (1) may provide for a complaint to be considered by one or more of the following—
- (a) the local authority in respect of whose functions the complaint is made;
  - [<sup>F34</sup>(b) . . . . .]
  - (c) an independent panel established under the regulations;
  - (d) any other person or body.

**Status:** Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.

Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) The Assembly may by regulations make provision about the handling and consideration of complaints made under the regulations about—
- (a) the discharge by a local authority in Wales of any of its social services functions;
  - (b) the provision of services by another person pursuant to arrangements made by such an authority in the discharge of those functions;
  - (c) the provision of services by such an authority or any other person in pursuance of arrangements made by the authority under section 31 of the Health Act 1999 (c. 8) in relation to the functions of an NHS body (within the meaning of that section).
- (4) Regulations under subsection (3) may provide for a complaint to be considered by one or more of the following—
- (a) the local authority in respect of whose functions the complaint is made;
  - (b) an independent panel established under the regulations;
  - (c) any other person or body.
- (5) Regulations under this section may provide for a complaint or any matter raised by a complaint—
- (a) in the case of regulations under subsection (1), to be referred to a Local Commissioner under Part 3 of the Local Government Act 1974 (c. 7)<sup>F35</sup>... for him to consider whether to investigate the complaint or matter under that Part [<sup>F36</sup>(and for the complaint to be treated as satisfying sections 26A and 26B of that Act)];
  - <sup>F37</sup>(b) in the case of regulations under subsection (3), to be referred to the Public Services Ombudsman for Wales for him to consider whether to investigate the complaint or matter under the Public Services Ombudsman (Wales) Act 2005 (and to be treated by him as a complaint duly referred to him under section 2(3) of that Act).]
  - (c) to be referred to any other person or body for him or it to consider whether to take any action otherwise than under the regulations.
- (6) Regulations under this section may not make provision about complaints capable of being considered as representations under section 24D or section 26 of the Children Act 1989 (c. 41).

#### Textual Amendments

- F33** Words in s. 114(1)(c) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 243](#) (with Sch. 3 Pt. 1)
- F34** S. 114(2)(b) repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 46, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(r), 36
- F35** Words in s. 114(5)(a) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, Sch. 6 para. 76(a), [Sch. 7](#); S.I. 2005/2800, art. 5(1)(3)
- F36** Words in s. 114(5)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 12 para. 18](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F37** S. 114(5)(b) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 6 para. 76\(b\)](#); S.I. 2005/2800, art. 5(1)(3)

#### Commencement Information

- I42** S. 114 partly in force; s. 114 in force at Royal Assent for certain purposes, see s. 199(1)(4)



*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.*

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- I43** S. 114(1)(2)(5)(6) in force at 1.9.2006 for E. in so far as not already in force by S.I. 2006/1680, **art. 3(b)**
- I44** S. 114(3)(4) in force at 1.4.2006 for W. so far as not already in force by S.I. 2005/3285, **art. 2(2)(a)**
- I45** S. 114(5) in force at 1.4.2006 for W. so far as not already in force by S.I. 2005/3285, **art. 2(2)(c)**

## 115 Complaints regulations: supplementary **E+W**

- (1) Regulations under subsection (1) or (2) of section 113 or under subsection (1) or (3) of section 114 (“the regulations”) may, without prejudice to the generality of the subsection under which they are made, make the following provision.
- (2) The regulations may make provision about—
- (a) the persons who may make a complaint;
  - (b) the complaints which may, or may not, be made under the regulations;
  - (c) the persons to whom complaints may be made;
  - (d) complaints which need not be considered;
  - (e) the period within which complaints must be made;
  - (f) the procedure to be followed in making, handling and considering a complaint;
  - (g) matters which are excluded from consideration;
  - (h) the making of a report or recommendations about a complaint;
  - (i) the action to be taken as a result of the complaint.
- (3) The regulations may require—
- (a) the making of a payment, in relation to the consideration of a complaint under the regulations, by any person or body in respect of whom the complaint is made;
  - (b) any such payment to be—
    - (i) made to such person or body as may be specified in the regulations; and
    - (ii) of such amount as may be specified in, or calculated or determined under, the regulations;
  - (c) an independent panel to review the amount chargeable under paragraph (a) in any particular case and, if the panel thinks fit, to substitute a lesser amount.
- (4) The regulations may require any person or body who handles or considers complaints under the regulations to make information available to the public about the procedures to be followed under the regulations.
- (5) The regulations may also—
- (a) provide for different parts or aspects of a complaint to be treated differently;
  - (b) require the production of information or documents in order to enable a complaint to be properly considered;
  - (c) authorise the disclosure of information or documents relevant to a complaint to a person or body—
    - (i) who is considering a complaint under the regulations; or
    - (ii) to whom a complaint has been referred;
 and any such disclosure may be authorised notwithstanding any rule of common law that would otherwise prohibit or restrict the disclosure.



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- (6) The regulations may make provision about complaints which raise both matters falling to be considered under the regulations and matters falling to be considered under other statutory complaints procedures, including in particular provision for—
- (a) enabling such a complaint to be made under the regulations; and
  - (b) securing that matters falling to be considered under other statutory complaints procedures are treated as if they had been raised in a complaint made under the appropriate procedures;
- and in this subsection “statutory complaints procedures” means procedures established by or under any enactment.

**Commencement Information**

**I46** S. 115 partly in force; s. 115 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I47** S. 115 in force at 1.9.2006 for E. in so far as not already in force by [S.I. 2006/1680](#), [art. 3\(c\)](#)

**I48** S. 115(1)(2)(4)-(6) in force at 1.4.2006 for W. so far as not already in force by [S.I. 2005/3285](#), [art. 2\(2\)\(c\)](#)

**116 Further consideration of representations under the Children Act 1989** **E+W**

<sup>F38</sup>(1) .....

(2) After section 26ZA of that Act (as inserted by subsection (1)) insert—

**“26ZB Representations: further consideration (Wales)**

- (1) The Secretary of State may by regulations make provision for the further consideration of representations which have been considered by a local authority in Wales under section 24D or section 26.
- (2) The regulations may in particular make provision—
  - (a) for the further consideration of a representation by an independent panel established under the regulations;
  - (b) about the procedure to be followed on the further consideration of a representation;
  - (c) for the making of recommendations about the action to be taken as the result of a representation;
  - (d) about the making of reports about a representation;
  - (e) about the action to be taken by the local authority concerned as a result of the further consideration of a representation;
  - (f) for a representation to be referred back to the local authority concerned for reconsideration by the authority.
- (3) The regulations may require—
  - (a) the making of a payment, in relation to the further consideration of a representation under this section, by any local authority in respect of whose functions the representation is made;
  - (b) any such payment to be—
    - (i) made to such person or body as may be specified in the regulations;

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- (ii) of such amount as may be specified in, or calculated or determined under, the regulations; and
  - (c) for an independent panel to review the amount chargeable under paragraph (a) in any particular case and, if the panel thinks fit, to substitute a lesser amount.
- (4) The regulations may also—
- (a) provide for different parts or aspects of a representation to be treated differently;
  - (b) require the production of information or documents in order to enable a representation to be properly considered;
  - (c) authorise the disclosure of information or documents relevant to a representation to a person or body who is further considering a representation under the regulations;
- and any such disclosure may be authorised notwithstanding any rule of common law that would otherwise prohibit or restrict the disclosure.”
- (3) In section 26A of that Act (requirement on local authorities to provide assistance for persons making representations under section 24D and section 26), after subsection (2) insert—
- “(2A) The duty under subsection (1) includes a duty to make arrangements for the provision of assistance where representations under section 24D or 26 are further considered under section 26ZA or 26ZB.”

#### Textual Amendments

**F38** S. 116(1) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 18 Pt. 5](#); [S.I. 2007/935](#), art. 5(ii)

#### Commencement Information

**I49** S. 116 partly in force; s. 116 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I50** S. 116(2) in force at 1.4.2006 by [S.I. 2005/3285](#), art. 2(2)(b)

**I51** S. 116(3) in force at 1.4.2006 for W. by [S.I. 2005/3285](#), art. 2(2)(c)

## 117 Representations relating to special guardianship support services **E+W**

- (1) In section 26 of the Children Act 1989 (c. 41) (representations), after subsection (3B) insert—
- “(3C) The duty under subsection (3) extends to any representations (including complaints) which are made to the authority by—
- (a) a child with respect to whom a special guardianship order is in force,
  - (b) a special guardian or a parent of such a child,
  - (c) any other person the authority consider has a sufficient interest in the welfare of such a child to warrant his representations being considered by them, or
  - (d) any person who has applied for an assessment under section 14F(3) or (4),
- about the discharge by the authority of such functions under section 14F as may be specified by the Secretary of State in regulations.”

**Status:** Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.

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- (2) Section 14G of that Act (special guardianship support services: representations) shall cease to have effect.

#### Commencement Information

- I52** S. 117 partly in force; s. 117 in force at Royal Assent for certain purposes, see s. 199(1)(4)  
**I53** S. 117 in force at 30.12.2005 for W. by S.I. 2005/3285, art. 2(1)  
**I54** S. 117(1) in force at 17.1.2005 for specified purposes for E. by S.I. 2005/38, art. 2(a)  
**I55** S. 117(1) in force at 30.12.2005 for E. so far as not already in force by S.I. 2005/2925, art. 8  
**I56** S. 117(2) in force at 17.1.2005 for E. by S.I. 2005/38, art. 2(b)

### 118 Complaints about handling of complaints **E+W**

In section 3 of the Health Service Commissioners Act 1993 (c. 46) (remit of Commissioners), after subsection (1D) insert—

“(1E) Where a complaint is duly made to a Commissioner by or on behalf of a person that the person has sustained injustice or hardship in consequence of maladministration by any person or body in the exercise of any function under section 113 of the Health and Social Care (Community Health and Standards) Act 2003 (complaints about health care), the Commissioner may, subject to the provisions of this Act, investigate the alleged maladministration.”

#### Commencement Information

- I57** S. 118 in force at 1.6.2004 by S.I. 2004/759, art. 8

### 119 Complaints: data protection **E+W**

In section 31 of the Data Protection Act 1998 (c. 29) (regulatory activity) at the end insert—

“(6) Personal data processed for the purpose of the function of considering a complaint under section 113(1) or (2) or 114(1) or (3) of the Health and Social Care (Community Health and Standards) Act 2003, or section 24D, 26, 26ZA or 26ZB of the Children Act 1989, are exempt from the subject information provisions in any case to the extent to which the application of those provisions to the data would be likely to prejudice the proper discharge of that function.”

#### Commencement Information

- I58** S. 119 in force at 1.6.2004 by S.I. 2004/759, art. 7

*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.*

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## CHAPTER 10 **U.K.**

### SUPPLEMENTARY AND GENERAL

#### *Joint working*

#### <sup>F39</sup>120 Co-operation etc **E+W**

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##### **Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

#### <sup>F39</sup>121 Reviews and investigations **E+W**

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##### **Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

#### <sup>F39</sup>122 Joint annual reviews **E+W**

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##### **Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

#### <sup>F39</sup>123 Power to assist **E+W**

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##### **Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

*Status:* Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.

*Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Arrangements with public authorities*

**F39 124 Arrangements with Ministers etc: CHAI U.K.**

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**Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F39 125 Arrangements with Ministers etc: CSCI U.K.**

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**Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F39 126 Arrangements with the Isle of Man and Channel Islands: CHAI E+W**

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**Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F39 127 Arrangements with the Isle of Man and Channel Islands: CSCI E+W**

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**Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

*Reports*

**F39 128 Reports: CHAI E+W**

.....

*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.*

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**Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F39 129 Reports: CSCI E+W**

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**Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

*Relationship with government*

**F39 130 Duty to have regard to government policy: CHAI E+W**

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**Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F39 131 Duty to have regard to government policy: CSCI E+W**

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**Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F39 132 Failure in discharge of functions: CHAI E+W**

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**Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

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**F39 133 Failure in discharge of functions: CSCI** E+W

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**Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

*Inquiries*

**F39 134 Inquiries: CHAI** E+W

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**Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F39 135 Inquiries: CSCI** E+W

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**Textual Amendments**

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

*Information*

**F40 136 Disclosure of information obtained by CHAI** E+W

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**Textual Amendments**

**F40** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(s), 36; S.I. 2010/807, art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

**F41 137 Section 136: defence** E+W

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#### Textual Amendments

**F41** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

#### <sup>F39</sup> **138 Information obtained by CHAI: supplementary** **E+W**

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#### Textual Amendments

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

#### <sup>F39</sup> **139 Information obtained by CSCI: supplementary** **E+W**

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#### Textual Amendments

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

#### <sup>F39</sup> **140 Code of practice: CHAI** **E+W**

.....

#### Textual Amendments

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)

#### <sup>F39</sup> **141 Code of practice: CSCI** **E+W**

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#### Textual Amendments

**F39** Ss. 120-141 repealed (1.4.2009 except in relation to ss. 136, 137, 6.4.2010 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 47, [Sch. 15 Pt. 1](#); [S.I. 2009/462](#), art. 2(1), Sch. 1 paras. 35(s), 36; [S.I. 2010/807](#), art. 2(1), Sch. 1 paras. 17, 18 (with Pt. 3)



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*Wales: supplementary*

**142 Annual reports of Assembly** **E+W**

As soon as possible after the end of each financial year of the Assembly, the Assembly must make and publish a report or reports on—

- (a) what it has found during the year in the course of exercising—
  - (i) its functions under Chapter 4 and 6 of this Part (other than any function of making regulations);
  - (ii) its functions exercisable by virtue of section 5(b) and 8(1) to (3) of the Care Standards Act 2000 (c. 14);
- (b) the way in which the Assembly has during the year exercised those functions.

**Commencement Information**

**I59** S. 142 in force at 1.4.2004 by [S.I. 2004/873](#), [art. 2\(d\)](#)

**[<sup>F42</sup>143 Use by Welsh Ministers of information** **E+W**

- (1) The Welsh Ministers may use any information they obtain, or documents produced to them, in the course of exercising any function of the Welsh Ministers referred to in any paragraph of subsection (2) for the purposes of any function of the Welsh Ministers referred to in any other paragraph of that subsection.
- (2) The functions of the Welsh Ministers referred to in subsection (1) are—
  - (a) their functions under Chapter 4 of this Part;
  - (b) their functions under Chapter 6 of this Part;
  - (c) their functions exercisable by virtue of section 5(1)(b) or 8(1) to (3) of the Care Standards Act 2000;
  - (d) their functions under section 80 of the Children Act 1989;
  - (e) their functions under the Mental Health Act 1983 in their capacity as the regulatory authority (within the meaning of that Act);
  - (f) any functions exercisable by them by virtue of paragraph 163(1) of Schedule A1 to the Mental Capacity Act 2005.
- (3) References to functions in subsection (2) do not include functions of making regulations.]

**Textual Amendments**

**F42** S. 143 substituted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 5 para. 48](#); [S.I. 2009/462](#), [art. 2\(1\)](#), [Sch. 1 para. 35\(t\)](#)

**<sup>F43</sup>144 Inquiries: Wales** **E+W**

*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

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#### Textual Amendments

**F43** S. 144 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 49, Sch. 15 Pt. 1](#); [S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(t\), 36](#)

#### Commencement Information

**I60** S. 144 in force at 1.4.2004 by [S.I. 2004/873, art. 2\(d\)](#)

### <sup>F44</sup> 145 Co-operation between Assembly and CHAI **E+W**

#### Textual Amendments

**F44** S. 145 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 50, Sch. 15 Pt. 1](#); [S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(t\), 36](#)

### <sup>F45</sup> 145A Duties in connection with the Auditor General for Wales **E+W**

#### Textual Amendments

**F45** S. 145A repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 50, Sch. 15 Pt. 1](#); [S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(t\), 36](#)

#### General

### 146 Offences by bodies corporate **E+W**

- (1) This section applies where any offence under this Part is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) any director, manager, or secretary of the body corporate, or
  - (b) any person who was purporting to act in any such capacity,
 he (as well as the body corporate) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (3) The reference in subsection (2) to a director, manager or secretary of a body corporate includes a reference—
  - (a) to any other similar officer of the body; and
  - (b) where the body is a local authority or NHS body, to any officer or member of the authority or NHS body.

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### Commencement Information

**I61** S. 146 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 5\(2\)\(a\)](#)

## 147 Minor and consequential amendments **E+W**

Schedule 9 (which makes minor and consequential amendments relating to this Part) has effect.

### Commencement Information

**I62** S. 147 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346](#), [art. 3\(b\)](#)

**I63** S. 147 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), [art. 5\(b\)](#)

**I64** S. 147 in force at 11.3.2004 for specified purposes for E. by [S.I. 2004/759](#), [art. 4\(1\)\(b\)](#)

**I65** S. 147 in force at 11.3.2004 for specified purposes by [S.I. 2004/759](#), [art. 5\(1\)\(b\)](#)

**I66** S. 147 in force at 1.4.2004 for specified purposes by [S.I. 2004/759](#), [art. 9](#)

**I67** S. 147 in force at 1.4.2004 for specified purposes for E. by [S.I. 2004/759](#), [art. 4\(2\)\(b\)](#)

**I68** S. 147 in force at 1.4.2004 for specified purposes by [S.I. 2004/759](#), [art. 5\(2\)\(b\)](#)

**I69** S. 147 in force at 1.6.2004 for specified purposes by [S.I. 2004/759](#), [art. 8](#)

**I70** S. 147 in force at 15.1.2007 for specified purposes for E. by [S.I. 2006/3397](#), [art. 5](#)

## 148 Interpretation of Part 2 **E+W**

In this Part—

“Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England<sup>F46</sup>...;

<sup>F47</sup> <sup>F47</sup> <sup>F47</sup> <sup>F47</sup> ...

“cross-border SHA” means a Special Health Authority not performing functions only or mainly in respect of England or only or mainly in respect of Wales;

<sup>F48</sup> <sup>F48</sup> <sup>F48</sup> <sup>F48</sup> ...

“English local authority social service” means—

- (a) a service which is provided, in any place, by a local authority in England in the exercise of any of its social services functions;
- (b) a service which is provided, in any place, by another person pursuant to arrangements made by a local authority in England in the exercise of its social services functions;
- (c) a service which—
  - (i) is provided, in any place, by a local authority in England, or by another person pursuant to arrangements made by a local authority in England, under section 2(1)(b) of the Local Government Act 2000 (c. 22); and
  - (ii) is similar in nature to a service which could be provided by the authority in the exercise of any of its social services functions<sup>F49</sup>but does not include anything which may be inspected by Her Majesty's Chief Inspector of Education, Children's Services and Skills under Chapter 4 of Part 8 of the Education and Inspections Act 2006].

“English NHS body” means—

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- (a) a Primary Care Trust;
- (b) a Strategic Health Authority;
- (c) an NHS trust all or most of whose hospitals, establishments and facilities are situated in England;
- (d) an NHS foundation trust;
- (e) a Special Health Authority performing functions only or mainly in respect of England;

F50 F50 F50 F50 F50 F50 F50  
... ..

- (a) F50 ...
- (b) F50 ...

“health care” has the meaning given by section 45(2);

“local authority” has the same meaning as in the Local Authority Social Services Act 1970 (c. 42) (see section 1 of that Act);

F51 F51 F51  
... ..

“NHS body” means—

- (a) an English NHS body;
- (b) a Welsh NHS body;
- (c) a cross-border SHA;

“NHS trust” has the same meaning as in [F52the 2006 Act];

“personal records” includes medical records;

“prescribed” means prescribed by regulations made by—

- (a) the Secretary of State;
- (b) in the case of sections 63, 75 and 101, the Assembly;

“regulator” means the Independent Regulator of NHS Foundation Trusts;

“social services functions” has the same meaning as in the Local Authority Social Services Act 1970;

[F53 “Welsh local authority social service” means—

- (a) a service provided, in any place, by a local authority in Wales in the exercise of any of its social services functions;
- (b) a service provided, in any place, by another person pursuant to arrangements made by a local authority in Wales in the exercise of its social services functions;
- (c) a service which—
  - (i) is provided, in any place, by a local authority in Wales, or by another person pursuant to arrangements made by a local authority in Wales, under section 2(1)(b) of the Local Government Act 2000 (c. 22); and
  - (ii) is similar in nature to a service which could be provided by the authority in the exercise of any of its social services functions;

“Welsh NHS body” means—

- (a) a Local Health Board;
- (b) an NHS trust all or most of whose hospitals, establishments and facilities are situated in Wales;
- (c) a Special Health Authority performing functions only or mainly in respect of Wales.]

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### Textual Amendments

- F46** Words in s. 148 repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 9 para. 1\(2\)\(v\), Sch. 18 Pt. 9; S.I. 2008/172, art. 4\(a\)\(n\)\(i\)](#)
- F47** Words in s. 148 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 51\(a\), Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(t\), 36](#)
- F48** Words in s. 148 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 51\(b\), Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(t\), 36](#)
- F49** Words in s. 148 added (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 14 para. 93\(2\); S.I. 2007/935, art. 5\(gg\)](#)
- F50** Words in s. 148 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 51\(c\), Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(t\), 36](#)
- F51** Words in s. 148 repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), s. 170\(3\)\(4\), Sch. 5 para. 51\(d\), Sch. 15 Pt. 1; S.I. 2009/462, art. 2\(1\), Sch. 1 paras. 35\(t\), 36](#)
- F52** Words in s. 148 substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 246 \(with Sch. 3 Pt. 1\)](#)
- F53** Words in s. 148 added (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 14 para. 93\(3\); S.I. 2007/935, art. 5\(gg\)](#)

### Commencement Information

- I71** S. 148 partly in force; s. 148 in force at Royal Assent for certain purposes, see [s. 199\(1\)\(4\)](#)
- I72** S. 148 in force at 1.1.2004 by [S.I. 2003/3346, art. 4](#)

PROSPECTIVE

## 149 References to the provision of health care **E+W**

- (1) For the purposes of this Part, a person provides health care for another person if he provides it—
- at the direction of the other person;
  - in accordance with, or by virtue of, an agreement or arrangements made by the other person (whether or not with the person providing the health care); or
  - otherwise on behalf of the other person.
- (2) References in this section to the provision of health care include references to its provision jointly with another person.

## PART 3 **E+W+S**

### RECOVERY OF NHS CHARGES

#### *NHS charges*

## 150 Liability to pay NHS charges **E+W+S**

- (1) This section applies if—

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- (a) a person makes a compensation payment to or in respect of any other person (the “injured person”) in consequence of any injury, whether physical or psychological, suffered by the injured person, and
  - (b) the injured person has—
    - (i) received NHS treatment at a health service hospital as a result of the injury,
    - (ii) been provided with NHS ambulance services as a result of the injury for the purpose of taking him to a health service hospital for NHS treatment (unless he was dead on arrival at that hospital), or
    - (iii) received treatment as mentioned in sub-paragraph (i) and been provided with ambulance services as mentioned in sub-paragraph (ii).
- (2) The person making the compensation payment is liable to pay the relevant NHS charges—
- (a) in respect of—
    - (i) the treatment, in so far as received at a hospital in England or Wales,
    - (ii) the ambulance services, in so far as provided to take the injured person to such a hospital,
 to the Secretary of State,
  - (b) in respect of—
    - (i) the treatment, in so far as received at a hospital in Scotland,
    - (ii) the ambulance services, in so far as provided to take the injured person to such a hospital,
 to the Scottish Ministers.
- (3) “Compensation payment” means a payment, including a payment in money’s worth, made—
- (a) by or on behalf of a person who is, or is alleged to be, liable to any extent in respect of the injury, or
  - (b) in pursuance of a compensation scheme for motor accidents,
- but does not include a payment mentioned in Schedule 10.
- (4) Subsection (1)(a) applies—
- (a) to a payment made—
    - (i) voluntarily, or in pursuance of a court order or an agreement, or otherwise, and
    - (ii) in the United Kingdom or elsewhere, and
  - (b) if more than one payment is made, to each payment.
- (5) “Injury” does not include any disease.
- (6) Nothing in subsection (5) prevents this Part from applying to—
- (a) treatment received as a result of any disease suffered by the injured person, or
  - (b) ambulance services provided as a result of any disease suffered by him,
- if the disease in question is attributable to the injury suffered by the injured person (and accordingly that treatment is received or those services are provided as a result of the injury).
- (7) “NHS treatment” means any treatment (including any examination of the injured person) other than—

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- [<sup>F54</sup>(a) treatment provided by virtue of—
- (i) section 21(4) or 44(6) of the 2006 Act,
  - (ii) paragraph 15 of Schedule 2 to, or paragraph 11 of Schedule 6 to, the 2006 Act,
  - (iii) paragraph 15 of Schedule 2 to, or paragraph 11 of Schedule 5 to, the National Health Service (Wales) Act 2006, or
  - (iv) section 57 of, or paragraph 14 of Schedule 7A to, the 1978 Act, (accommodation and services for private patients)]
- (b) other treatment provided by an NHS foundation trust in pursuance of an undertaking to pay in respect of the treatment given by or on behalf of the injured person,
- (c) treatment provided at a health service hospital by virtue of [<sup>F55</sup>section 267 of the 2006 Act or section 198 of the National Health Service (Wales) Act 2006] or section 64 of the 1978 Act (permission for use of national health service accommodation or facilities in private practice), or
- (d) treatment provided by virtue of—
- (i) [<sup>F56</sup>section 83, 84, 92, 99, 100 or 107 of the 2006 Act, or section 41, 42, 50, 56, 57 or 64 of the National Health Service (Wales) Act 2006] (primary medical and dental services), or
  - [<sup>F57</sup>(ii) section 2C, 17C, 17J or 25 of the 1978 Act (primary medical services or personal or general dental services).]
- (8) In relation to any time before sections 170 and 172 come into force, the references in subsection (7)(d)(i) to sections 16CA and 28K of the 1977 Act are to be taken as a reference to section 35 of that Act (arrangements for general dental services).
- (9) In relation to any time before sections 174 and 175 come into force, the references in subsection (7)(d)(i) to sections 16CC and 28Q of the 1977 Act are to be taken as a reference to section 29 of that Act (arrangements for general medical services).
- (10) “Relevant NHS charges” means the amount (or amounts) specified in a certificate of NHS charges—
- (a) issued under this Part, in respect of the injured person, to the person making the compensation payment, and
  - (b) in force.
- (11) “Compensation scheme for motor accidents” means any scheme or arrangement under which funds are available for the payment of compensation in respect of motor accidents caused, or alleged to have been caused, by uninsured or unidentified persons.
- (12) Regulations may amend Schedule 10 by omitting or modifying any payment for the time being specified in that Schedule.
- (13) This section applies in relation to any injury which occurs after the date on which this section comes into force.
- (14) For the purposes of this Part, it is irrelevant whether a compensation payment is made with or without an admission of liability.

#### Textual Amendments

- F54** S. 150(7)(a) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), [Sch. 1 para. 247\(a\)](#) (with [Sch. 3 Pt. 1](#))

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Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F55** Words in s. 150(7)(c) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 247\(b\)](#) (with Sch. 3 Pt. 1)
- F56** Words in s. 150(7)(d) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 247\(c\)](#) (with Sch. 3 Pt. 1)
- F57** S. 150(7)(d)(ii) substituted (29.1.2007) by [Health Act 2006 \(c. 28\), s. 83\(2\)\(b\), Sch. 8 para. 55; S.S.I. 2007/9, art. 2\(b\)](#)

#### Commencement Information

- I73** S. 150 partly in force; s. 150 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I74** S. 150(1)-(7)(10)-(14) in force at 28.1.2007 for S. in so far as not already in force by [S.S.I. 2007/10, art. 2\(1\)](#)
- I75** S. 150(1)-(7)(10)-(14) in force at 28.1.2007 for E.W. in so far as not already in force by [S.I. 2006/3397, art. 2\(1\)](#)

### Certificates of NHS charges

#### 151 Applications for certificates of NHS charges **E+W+S**

- (1) Before a person makes a compensation payment in consequence of any injury suffered by an injured person, he may apply for a certificate to the Secretary of State, the Scottish Ministers or both, according to whether he believes the relevant NHS charges payable by him (if any) would be due to the Secretary of State, the Scottish Ministers or both.
- (2) If the Secretary of State receives or the Scottish Ministers receive an application under subsection (1), he or they must arrange for a certificate to be issued as soon as is reasonably practicable (subject to section 152).
- (3) A certificate may provide that it is to remain in force—
  - (a) until a specified date,
  - (b) until the occurrence of a specified event, or
  - (c) indefinitely.
- (4) A person may apply under subsection (1) for a fresh certificate from time to time.
- (5) Subsection (2) does not require the Secretary of State or the Scottish Ministers to arrange for a fresh certificate to be issued to a person applying under subsection (4) if, when the application is received, a certificate issued to the applicant in respect of the injured person is still in force; but the Secretary of State or the Scottish Ministers (as the case may be) may arrange for a fresh certificate to be issued so as to have effect on the expiry of the current certificate.
- (6) If a certificate expires, the Secretary of State or the Scottish Ministers (as the case may be) may arrange for a fresh certificate to be issued without an application having to be made.
- (7) In the circumstances mentioned in subsection (8), a person who has made a compensation payment in consequence of an injury suffered by an injured person must apply for a certificate to the Secretary of State, the Scottish Ministers or both, according to whether he believes the relevant NHS charges payable by him (if any) would be due to the Secretary of State, the Scottish Ministers or both.
- (8) The circumstances are that—



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- (a) at the time the payment is made by the person—
    - (i) no certificate has been issued to him in respect of the injured person, or
    - (ii) if such a certificate has been issued to him, it is no longer in force, and
  - (b) no application for a certificate has been made by him during the prescribed period ending immediately before the day on which the compensation payment is made.
- (9) An application for a certificate must be made in the prescribed manner and, in the case of an application under subsection (7), within the prescribed period.
- (10) On receiving an application under subsection (7), the Secretary of State or the Scottish Ministers must arrange for a certificate to be issued as soon as is reasonably practicable (subject to section 152).
- (11) In this section and section 152, “relevant NHS charges” has the meaning given in section 150(10).

#### Commencement Information

**I76** S. 151 partly in force; s. 151 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I77** S. 151 in force at 29.1.2007 for E.W. in so far as not already in force by S.I. 2006/3397, art. 2(2)(a)

**I78** S. 151 in force at 29.1.2007 for S. in so far as not already in force by S.S.I. 2007/10, art. 2(2)(a)

## 152 Section 151: supplementary **E+W+S**

- (1) Subsection (2) applies if—
- (a) an application is made under subsection (1) or (7) of section 151 to the Secretary of State or the Scottish Ministers, and
  - (b) it appears to the Secretary of State or the Scottish Ministers that the relevant NHS charges payable by the applicant (if any) would be due to the Scottish Ministers or the Secretary of State (respectively) instead.
- (2) The Secretary of State or the Scottish Ministers (as the case may be) must refer the application to the Scottish Ministers or the Secretary of State (respectively), and the application is to be treated, for the purposes of this Part, as having been made to the Scottish Ministers or the Secretary of State (as the case may be).
- (3) Subsection (4) applies if—
- (a) an application is made under subsection (1) or (7) of section 151 to the Secretary of State or the Scottish Ministers, and
  - (b) it appears to the Secretary of State or the Scottish Ministers that the relevant NHS charges payable by the applicant (if any) would be due in part to him or them and in part to the Scottish Ministers or the Secretary of State (respectively).
- (4) The Secretary of State or the Scottish Ministers (as the case may be) must refer the application to the Scottish Ministers or the Secretary of State (respectively) in so far as the application relates to relevant NHS charges due to them or him, and the application is to be treated, for the purposes of this Part, as having been made to the Secretary of State in so far as it relates to relevant NHS charges due to him under subsection (2) of

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section 150 and to the Scottish Ministers in so far as it relates to relevant NHS charges due to them under that subsection.

- (5) A certificate may be issued under section 151 jointly by the Secretary of State and the Scottish Ministers specifying—
- (a) an amount (or amounts) for which a person is liable under subsection (2) of section 150 to the Secretary of State, and
  - (b) an amount (or amounts) for which that person is liable under that subsection to the Scottish Ministers,
- in respect of the same injured person in consequence of the same injury.
- (6) In the case of a certificate issued under section 151 specifying an amount (or amounts) as mentioned in paragraphs (a) and (b) of subsection (5), references in the following provisions of this Part to a certificate are to be taken as being to the certificate in so far as it relates to the liability to the Secretary of State or in so far as it relates to the liability to the Scottish Ministers (as the case may require).

#### Commencement Information

**I79** S. 152 in force at 29.1.2007 for E.W. by S.I. 2006/3397, art. 2(2)(a)

**I80** S. 152 in force at 29.1.2007 for S. by S.S.I. 2007/10, art. 2(2)(a)

### 153 Information contained in certificates **E+W+S**

- (1) A certificate must specify the amount (or amounts) for which the person to whom it is issued is liable under section 150(2).
- (2) The amount (or amounts) to be specified is (or are) to be that (or those) set out in, or determined in accordance with, regulations, reduced if applicable in accordance with subsection (3) or regulations under subsection (10).
- (3) If a certificate relates to a claim made by or on behalf of an injured person—
  - (a) in respect of which a court in England and Wales or Scotland has ordered a reduction of damages in accordance with section 1 of the Law Reform (Contributory Negligence) Act 1945 (c. 28),
  - (b) in respect of which a court in Northern Ireland has ordered a reduction of damages in accordance with section 2 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (c. 23),
  - (c) in respect of which a court in a country other than England and Wales, Scotland or Northern Ireland has ordered a reduction of damages under any provision of the law of that country which appears to the Secretary of State or the Scottish Ministers (as the case may be) to correspond to section 1 of the Law Reform (Contributory Negligence) Act 1945,
  - (d) in respect of which an officer of a court in England and Wales or Northern Ireland has entered or sealed an agreed judgement or order which specifies—
    - (i) that the damages are to be reduced to reflect the injured person's share in the responsibility for the injury in question, and
    - (ii) the amount or proportion by which they are to be so reduced,
  - (e) in the case of which the parties to any resulting action before a court in Scotland have executed a joint minute which specifies—
    - (i) that the action has been settled extra-judicially, and

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- (ii) the matters mentioned in paragraph (d)(i) and (ii),
- (f) in respect of which a document has been made under any provision of the law of a country other than England and Wales, Scotland or Northern Ireland—
  - (i) which appears to the Secretary of State to correspond to an agreed judgement or order entered or sealed by an officer of a court in England and Wales, and
  - (ii) which specifies the matters mentioned in paragraph (d)(i) and (ii), or
- (g) in the case of which a document has been made under any provision of the law of a country other than England and Wales, Scotland or Northern Ireland—
  - (i) which appears to the Scottish Ministers to correspond to a joint minute executed by the parties to a resulting action before a court in Scotland specifying that the action has been settled extra-judicially, and
  - (ii) which specifies the matters mentioned in paragraph (d)(i) and (ii),
 the amount (or amounts) specified in the certificate is (or are) to be that (or those) which would be so specified apart from this subsection, reduced by the same proportion as the reduction of damages.
- (4) If a certificate relates to an injured person who has not received NHS treatment at a health service hospital or been provided with NHS ambulance services as a result of the injury, it must indicate that no amount is payable to the Secretary of State or the Scottish Ministers (as the case may be) by reference to that certificate.
- (5) Regulations under subsection (2) may, in particular, provide—
  - (a) that the amount, or the aggregate amount, specified in a certificate is not to exceed a prescribed sum,
  - (b) for different amounts to be specified in respect of different circumstances or areas,
  - (c) for cases in which an injured person receives treatment at two or more health service hospitals,
  - (d) for cases in which an injured person receives treatment at one or more health service hospitals and is provided with NHS ambulance services,
  - (e) for cases in which liability under section 150(2) is to be apportioned between two or more persons making compensation payments to or in respect of the same injured person in consequence of the same injury,
  - (f) for cases in which a fresh certificate is issued or a certificate is revoked as a result of a review under or by virtue of section 156 or an appeal under section 157 or 159,
  - (g) for the amount specified in a certificate issued by the Secretary of State or the Scottish Ministers to be adjusted to take into account any amount for which the person to whom the certificate is issued is liable under section 150(2), in respect of the same injured person in consequence of the same injury, in accordance with a certificate issued by the Scottish Ministers or the Secretary of State (respectively),
  - (h) for any matter requiring determination under or in consequence of the regulations to be determined by the Secretary of State or the Scottish Ministers (as the case may require),
 and in the case of paragraph (e) may make such provision by modifying this Part.
- (6) Any reference in subsection (5)(a) or (b) to any amount (or amounts) specified in a certificate is to the amount (or amounts) which would be so specified apart from subsection (3) or regulations under subsection (10).

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- (7) Regulations under subsection (2) which provide for cases mentioned in subsection (5) (e) may (among other things) provide in the case of each compensator for—
- (a) determining, or re-determining, the amount for which he is liable under section 150(2),
  - (b) giving credit for amounts already paid, and
  - (c) the payment by any person of any balance or the recovery from any person of any excess.
- (8) Regulations under subsection (2) which provide for cases mentioned in subsection (5) (f) may (among other things) provide in the case of any compensator for the matters mentioned in paragraphs (b) and (c) of subsection (7).
- (10) Regulations may make provision as to the circumstances in which the amount (or amounts) specified in a certificate relating to a qualifying claim is (or are) to be that (or those) which would be so specified apart from the regulations, reduced by the same proportion as the reduction of damages.
- (11) A person to whom a certificate is issued is entitled to such particulars of the manner in which any amount (or amounts) specified in the certificate has (or have) been determined as may be prescribed, if he applies to the Secretary of State or the Scottish Ministers (as the case may require) for those particulars.
- (12) Regulations under subsection (2) may be made so as to apply to any certificate issued after the time the regulations come into force, other than one relating to a compensation payment made before that time.

#### Textual Amendments

**F58** S. 153(9) substituted (19.7.2006 for specified purposes, 29.1.2007 in so far as not already in force) by [Health Act 2006 \(c. 28\)](#), [ss. 73, 83\(1\)\(e\)](#); S.I. 2006/3125, art. 4; S.S.I. 2007/9, art. 2(a)

#### Commencement Information

**I81** S. 153 partly in force; s. 153 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I82** S. 153 in force at 29.1.2007 for E.W. in so far as not already in force by [S.I. 2006/3397](#), [art. 2\(2\)\(a\)](#)

**I83** S. 153 in force at 29.1.2007 for S. in so far as not already in force by [S.S.I. 2007/10](#), [art. 2\(2\)\(a\)](#)

### Recovery of NHS charges

#### 154 Payment of NHS charges **E+W+S**

- (1) If the certificate by reference to which an amount payable under section 150(2) is determined is issued before the settlement date, that amount must be paid before the end of the period of 14 days beginning with the settlement date.
- (2) If the certificate by reference to which an amount payable under section 150(2) is determined is issued on or after the settlement date, that amount must be paid before the end of the period of 14 days beginning with the day on which the certificate is issued.
- (3) “Settlement date” means the date on which the compensation payment is made.
- (4) This section is subject to section 155(2).

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### Commencement Information

**I84** S. 154 in force at 29.1.2007 for S. by S.S.I. 2007/10, art. 2(2)(a)

**I85** S. 154 in force at 29.1.2007 for E.W. by S.I. 2006/3397, art. 2(2)(a)

## 155 Recovery of NHS charges **E+W+S**

- (1) This section applies if a person has made a compensation payment and either—
  - (a) subsection (7) of section 151 applies but he has not applied for a certificate as required by that subsection, or
  - (b) he has not made payment, in full, of any amount due under section 150(2) by the end of the period allowed under section 154.
- (2) The Secretary of State, the Scottish Ministers or both, according to the circumstances of the case, may—
  - (a) in a case within subsection (1)(a), issue the person who made the compensation payment with a certificate, and
  - (b) in a case within subsection (1)(b), issue him with a copy of the certificate or (if more than one has been issued) the most recent one,
 and, in either case, issue him with a demand that payment of any amount due under section 150(2) be made immediately.
- (3) Subsections (5) and (6) of section 152 apply to certificates issued under subsection (2) above as they apply to certificates issued under section 151.
- (4) A demand issued under subsection (2) may be issued jointly by the Secretary of State and the Scottish Ministers specifying—
  - (a) an amount due under subsection (2) of section 150 to the Secretary of State, and
  - (b) an amount due under that subsection to the Scottish Ministers,
 in respect of the same injured person in consequence of the same injury.
- (5) In the case of a demand specifying amounts as mentioned in subsection (4)(a) and (b), references in the following provisions of this section to a demand are to be taken as being (as the case may require) to—
  - (a) the demand in so far as it relates to any amount due to the Secretary of State, or
  - (b) the demand in so far as it relates to any amount due to the Scottish Ministers, and related expressions are to be read accordingly.
- (6) The Secretary of State or the Scottish Ministers may recover the amount for which a demand for payment is made under subsection (2) from the person who made the compensation payment.
- (7) If the person who made the compensation payment resides or carries on business in England or Wales and a county court so orders, the amount demanded is recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court.
- (8) If the person who made the compensation payment resides or carries on business in Scotland, the demand may be enforced as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

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- (9) A document which states that it is a record of the amount recoverable under subsection (6) is conclusive evidence that the amount is so recoverable if it is signed by a person authorised to do so by the Secretary of State or the Scottish Ministers (as the case may be).
- (10) For the purposes of subsection (9), a document purporting to be signed by a person authorised to do so by the Secretary of State or the Scottish Ministers (as the case may be) is to be treated as so signed unless the contrary is proved.

#### Commencement Information

**I86** S. 155 in force at 29.1.2007 for S. by S.S.I. 2007/10, art. 2(2)(a)

**I87** S. 155 in force at 29.1.2007 for E.W. by S.I. 2006/3397, art. 2(2)(a)

### Review and appeal

#### 156 Review of certificates **E+W+S**

- (1) The Secretary of State or the Scottish Ministers must review a certificate issued by him or them if the certificate relates to a claim made by or on behalf of an injured person—
- (a) in respect of which, after the certificate is issued, a court in England and Wales or Scotland orders a reduction of damages in accordance with section 1 of the Law Reform (Contributory Negligence) Act 1945 (c. 28),
  - (b) in respect of which, after the certificate is issued, a court in Northern Ireland orders a reduction of damages in accordance with section 2 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (c. 23),
  - (c) in respect of which, after the certificate is issued, a court in a country other than England and Wales, Scotland or Northern Ireland orders a reduction of damages under any provision of the law of that country which appears to the Secretary of State or the Scottish Ministers (as the case may be) to correspond to section 1 of the Law Reform (Contributory Negligence) Act 1945,
  - (d) in respect of which, after the certificate is issued, an officer of a court in England and Wales or Northern Ireland enters or seals an agreed judgement or order which specifies—
    - (i) that the damages are to be reduced to reflect the injured person's share in the responsibility for the injury in question, and
    - (ii) the amount or proportion by which they are to be so reduced,
  - (e) in the case of which, after the certificate is issued, the parties to any resulting action before a court in Scotland execute a joint minute which specifies—
    - (i) that the action has been settled extra-judicially, and
    - (ii) the matters mentioned in paragraph (d)(i) and (ii),
  - (f) in respect of which, after the certificate is issued, a document is made under any provision of the law of a country other than England and Wales, Scotland or Northern Ireland—
    - (i) which appears to the Secretary of State to correspond to an agreed judgement or order entered or sealed by an officer of a court in England and Wales, and
    - (ii) which specifies the matters mentioned in paragraph (d)(i) and (ii), or



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- (g) in the case of which, after the certificate is issued, a document is made under any provision of the law of a country other than England and Wales, Scotland or Northern Ireland—
- (i) which appears to the Scottish Ministers to correspond to a joint minute executed by the parties to a resulting action before a court in Scotland specifying that the action has been settled extra-judicially, and
  - (ii) which specifies the matters mentioned in paragraph (d)(i) and (ii),
- and notification of the order, judgement, minute or document has been given to the Secretary of State or the Scottish Ministers (as the case may be) in the prescribed manner.
- (2) Regulations may make provision as to the circumstances in which the Secretary of State or the Scottish Ministers must review a certificate relating to a claim which, after the certificate is issued, becomes a qualifying claim (as defined in section 153(9)).
- (3) If—
- (a) the Secretary of State and the Scottish Ministers have issued certificates to a person specifying an amount (or amounts) for which that person is liable under section 150(2) in respect of the same injured person in consequence of the same injury, and
  - (b) either the Secretary of State or the Scottish Ministers subsequently adjusts or adjust the amount (or amounts) specified in the certificate issued by him or them on a review of, or an appeal against, that certificate,
- the other must review the certificate issued by him or them (as the case may be) if he is or they are satisfied that it is necessary or expedient to make consequential adjustments to that certificate.
- (4) The Secretary of State or the Scottish Ministers may review a certificate issued by him or them—
- (a) either within the prescribed period or in prescribed cases or circumstances, and
  - (b) either on application made for the purpose or on his or their initiative.
- (5) On a review under or by virtue of this section, the Secretary of State or the Scottish Ministers may—
- (a) confirm the certificate,
  - (b) issue a fresh certificate containing such variations as he considers or they consider appropriate, or
  - (c) revoke the certificate.
- (6) But the Secretary of State or the Scottish Ministers may not vary a certificate so as to increase the amount, or the aggregate amount, specified unless it appears to him or them that the variation is required as a result of his or their having been supplied with incorrect or insufficient information by the person to whom the certificate is issued.
- (7) Subsections (5) and (6) of section 152 apply to certificates issued under subsection (5) (b) above as they apply to certificates issued under section 151.

#### Commencement Information

**188** S. 156 partly in force; s. 156 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**189** S. 156 in force at 29.1.2007 for E.W. in so far as not already in force by S.I. 2006/3397, art. 2(2)(a)

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**190** S. 156 in force at 29.1.2007 for S. in so far as not already in force by S.S.I. 2007/10, art. 2(2)(a)

## 157 Appeal against a certificate or a waiver decision **E+W+S**

- (1) An appeal against a certificate may be made by the person to whom the certificate was issued on one or more of the following grounds—
  - (a) that an amount (or amounts) specified in the certificate is (or are) incorrect,
  - (b) that an amount (or amounts) so specified takes (or take) into account—
    - (i) treatment which is not NHS treatment received by the injured person, as a result of his injury, at a health service hospital,
    - (ii) ambulance services which are not NHS ambulance services provided to the injured person as a result of his injury, or
    - (iii) treatment as mentioned in sub-paragraph (i) and ambulance services as mentioned in sub-paragraph (ii),
  - (c) that the payment on the basis of which the certificate was issued is not a compensation payment.
- (2) No appeal may be made until—
  - (a) the claim against the person to whom the certificate was issued, which gives rise to the compensation payment, has been finally disposed of, and
  - (b) payment of the amount (or amounts) specified in the certificate has been made to the Secretary of State or the Scottish Ministers (as the case may be), subject to subsection (4) and sections 158(6) and 159(5).
- (3) For the purposes of subsection (2)(a), if an award of damages in respect of a claim has been made under or by virtue of—
  - (a) section 32A(2)(a) of the <sup>F59</sup>Senior Courts Act 1981],
  - (b) section 12(2)(a) of, or paragraph 10(2)(a) of Schedule 6 to, the Administration of Justice Act 1982 (c. 53), or
  - (c) section 51(2)(a) of the County Courts Act 1984 (c. 28),
 (orders for provisional damages in personal injury cases), the claim is to be treated as having been finally disposed of.
- (4) The Secretary of State or the Scottish Ministers may, on an application by the person to whom the certificate was issued, waive the requirement in subsection (2)(b) that payment of the amount (or amounts) specified in the certificate be made before making an appeal.
- (5) The Secretary of State or the Scottish Ministers may only grant a waiver if it appears to him or them that payment of the amount (or amounts) specified in the certificate would cause exceptional financial hardship.
- (6) An appeal against a decision of the Secretary of State or the Scottish Ministers on an application under subsection (4) (referred to in this section and <sup>F60</sup>section 158] as a “waiver decision”) may be made by the person to whom the certificate was issued.
- (7) Regulations may make provision—
  - (a) as to the manner in which, and the time within which, an appeal against a certificate or waiver decision may be made,
  - (b) as to the procedure to be followed if an appeal against a certificate or waiver decision is made,
  - (c) <sup>F61</sup>...and



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- (d) for the purpose of enabling an appeal against a certificate to be treated as an application for a review under section 156.

#### Textual Amendments

- F59** Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 11 para. 1\(2\)](#); [S.I. 2009/1604, art. 2\(d\)](#)
- F60** Words in s. 157(6) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\), art. 1\(1\), Sch. 3 para. 199\(a\)](#)
- F61** S. 157(7)(c) omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\), art. 1\(1\), Sch. 3 para. 199\(b\)](#)

#### Commencement Information

- I91** S. 157 partly in force; s. 157 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I92** S. 157 in force at 29.1.2007 for S. in so far as not already in force by [S.S.I. 2007/10, art. 2\(2\)\(a\)](#)
- I93** S. 157 in force at 29.1.2007 for E.W. in so far as not already in force by [S.I. 2006/3397, art. 2\(2\)\(a\)](#)

## 158 Appeal tribunals **E+W+S**

- (1) The Secretary of State or the Scottish Ministers must refer to <sup>F62</sup>[the First-tier Tribunal] an appeal against—
- a certificate, or
  - a waiver decision.
- (2) In determining an appeal against a certificate, the tribunal must take into account any decision of a court relating to the same, or any similar, issue arising in connection with the injury in question.
- (3) On an appeal against a certificate, the tribunal may—
- confirm the amount or amounts specified in the certificate,
  - specify any variations which are to be made on the issue of a fresh certificate under subsection (4), or
  - declare that the certificate is to be revoked.
- (4) When the Secretary of State or the Scottish Ministers (as the case may be) has or have received the decision of <sup>F63</sup>[a tribunal] on an appeal against a certificate, he or they must in accordance with that decision—
- confirm the certificate,
  - issue a fresh certificate, or
  - revoke the certificate.
- (5) Subsections (5) and (6) of section 152 apply to certificates issued under subsection (4) (b) above as they apply to certificates issued under section 151.
- (6) On an appeal against a waiver decision, the tribunal may—
- confirm the decision, or
  - waive the requirement in question.

<sup>F64</sup>(7) .....

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#### Textual Amendments

- F62** Words in s. 158(1) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 200(a)**
- F63** Words in s. 158(4) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 200(b)**
- F64** S. 158(7) omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 200(c)**

#### Commencement Information

- I94** S. 158 partly in force; s. 158 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I95** S. 158 in force at 29.1.2007 for S. in so far as not already in force by [S.S.I. 2007/10](#), **art. 2(2)(a)**
- I96** S. 158 in force at 29.1.2007 for E.W. in so far as not already in force by [S.I. 2006/3397](#), **art. 2(2)(a)**

### <sup>F65</sup> 159 Appeal to Social Security Commissioner **E+W+S**

#### Textual Amendments

- F65** S. 159 omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 201**

#### Information

### 160 Provision of information **E+W+S**

- (1) If compensation is sought in consequence of any injury suffered by an injured person, such information with respect to the circumstances of the case as may be prescribed must be given by the following persons to the Secretary of State or the Scottish Ministers (as the case may require)—
- (a) the person against whom the claim is made and anyone acting on behalf of that person, whether or not proceedings have been commenced,
  - (b) the injured person or, if the injured person has died, his personal representative,
  - (c) anyone not within paragraph (a) who is, or is alleged to be, liable to any extent in respect of the injury,
  - (d) if the claim is not made by the injured person, the person by whom it is made,
  - (e) anyone acting on behalf of the person within any of paragraphs (b) to (d),
  - (f) the responsible body of each health service hospital at which the injured person has received NHS treatment as a result of his injury,
  - (g) any ambulance trust which provided NHS ambulance services as a result of his injury.
- (2) A person who is required to give information under this section must do so—
- (a) in the prescribed manner, and
  - (b) within the prescribed period.

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- (3) Regulations under this section may, in particular, require the provision of information about any NHS treatment which an injured person has received at a health service hospital and any NHS ambulance services provided to the injured person.
- (4) In this section—
- “ambulance trust”—
- (a) in relation to England or Wales, means—
- (i) a National Health Service trust established under [F66] section 25 of the 2006 Act, section 18 of the National Health Service (Wales) Act 2006 ], or
- (ii) an NHS foundation trust,
- (b) in relation to Scotland, means a Special Health Board established under section 2(1)(b) of the 1978 Act;
- “responsible body”, in relation to a health service hospital, means—
- (a) in the case of a hospital vested in—
- (i) a National Health Service trust established under [F67] section 25 of the 2006 Act, section 18 of the National Health Service (Wales) Act 2006] or section 12A of the 1978 Act, or
- (ii) a Primary Care Trust,
- the trust, and
- (b) in any other case, the body responsible for the management of the hospital.

#### Textual Amendments

**F66** Words in s. 160(4) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 248\(a\)](#) (with Sch. 3 Pt. 1)

**F67** Words in s. 160(4) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 248\(b\)](#) (with Sch. 3 Pt. 1)

#### Commencement Information

**I97** S. 160 partly in force; s. 160 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I98** S. 160 in force at 29.1.2007 for E.W. in so far as not already in force by [S.I. 2006/3397, art. 2\(2\)\(a\)](#)

**I99** S. 160 in force at 29.1.2007 for S. in so far as not already in force by [S.S.I. 2007/10, art. 2\(2\)\(a\)](#)

## 161 Use of information held by the Secretary of State or the Scottish Ministers etc. **E+W+S**

- (1) Subsection (2) applies to information which is held—
- (a) by the Secretary of State, or
- (b) by a person providing services to the Secretary of State in connection with the provision of those services,
- for the purposes of, or for any purpose connected with, the exercise of functions under the Social Security (Recovery of Benefits) Act 1997 (c. 27).
- (2) The information may—
- (a) be used for the purposes of, or for any purpose connected with, the exercise of functions under this Part, and

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- (b) be supplied to a qualifying person for use for those purposes.
- (3) In subsection (2), “qualifying person” means—
  - (a) in the case of information held by the Secretary of State—
    - (i) a person providing services to the Secretary of State, or
    - (ii) the Scottish Ministers or a person providing services to the Scottish Ministers, or
  - (b) in the case of information held by a person providing services to the Secretary of State—
    - (i) the Secretary of State or another person providing services to the Secretary of State, or
    - (ii) the Scottish Ministers or a person providing services to the Scottish Ministers.
- (4) Subsection (5) applies to information which is held—
  - (a) by the Secretary of State or the Scottish Ministers, or
  - (b) by a person providing services to the Secretary of State or the Scottish Ministers in connection with provision of those services,
 for the purposes of, or for any purpose connected with, the exercise of functions under this Part.
- (5) The information may—
  - (a) be used for the purposes of, or for any purpose connected with, the exercise of functions under the Social Security (Recovery of Benefits) Act 1997, and
  - (b) be supplied to a qualifying person for use for those purposes.
- (6) In subsection (5), “qualifying person” means—
  - (a) in the case of information held by the Secretary of State, a person providing services to the Secretary of State,
  - (b) in the case of information held by the Scottish Ministers, the Secretary of State or a person providing services to the Secretary of State,
  - (c) in the case of information held by a person providing services to the Secretary of State, the Secretary of State or another person providing services to the Secretary of State,
  - (d) in the case of information held by a person providing services to the Scottish Ministers, the Secretary of State or a person providing services to the Secretary of State.

#### Commencement Information

**I100** S. 161 in force at 29.1.2007 for E.W. by S.I. 2006/3397, art. 2(2)(a)

**I101** S. 161 in force at 29.1.2007 for S. by S.S.I. 2007/10, art. 2(2)(a)

#### *Payments to hospitals or ambulance trusts*

### 162 Payment of NHS charges to hospitals or ambulance trusts **E+W+S**

- (1) If the Secretary of State receives or the Scottish Ministers receive a payment of relevant NHS charges under section 150(2)—

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- (a) if the payment relates only to NHS treatment received at a health service hospital, he or they must pay the amount received to the responsible body of the health service hospital,
  - (b) if the payment relates only to the provision of NHS ambulance services, he or they must pay the amount received to the relevant ambulance trust,
  - (c) if the payment relates to NHS treatment received at more than one health service hospital, he or they must divide the amount received among the responsible bodies of the hospitals concerned in such manner as he considers or they consider appropriate,
  - (d) if the payment relates to NHS treatment received at one or more health service hospitals and the provision of NHS ambulance services, he or they must divide the amount received among the responsible body or bodies of the hospital or hospitals and any relevant ambulance trusts concerned in such manner as he considers or they consider appropriate.
- (2) Subsection (1) does not apply to any amount received by the Secretary of State or the Scottish Ministers under section 150(2) which he is or they are required to repay in accordance with regulations under section 153(2).
- (3) Regulations under this section may—
- (a) make provision for the manner in which and intervals at which any payments due under this section are to be made,
  - (b) make provision for cases where the responsible body of the health service hospital or relevant ambulance trust concerned has ceased to exist (including provision modifying this Part).
- (4) Any amounts received under this section by the responsible bodies of the health service hospitals concerned must be used for the purposes of providing goods and services for the benefit of patients receiving NHS treatment at those hospitals.
- (5) Any amounts received under this section by the relevant ambulance trusts concerned must be used for the purposes of NHS ambulance services.
- (6) In this section—
- “relevant ambulance trust”—
- (a) in relation to England or Wales, means—
    - (i) the National Health Service trust established under [F68]section 25 of the 2006 Act or section 18 of the National Health Service (Wales) Act 2006], or
    - (ii) the NHS foundation trust,

which is designated by the Secretary of State for the purposes of this section in relation to the health service hospital to which the injured person was taken for treatment,
  - (b) in relation to Scotland, means the Special Health Board, established under section 2(1)(b) of the 1978 Act, which is designated by the Scottish Ministers for the purposes of this section in relation to the health service hospital to which the injured person was taken for treatment;
- “responsible body” has the meaning given in section 160(4).

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### Textual Amendments

**F68** Words in s. 162(6) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 249](#) (with [Sch. 3 Pt. 1](#))

### Commencement Information

**I102** S. 162 partly in force; s. 162 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I103** S. 162 in force at 29.1.2007 for S. in so far as not already in force by [S.S.I. 2007/10](#), [art. 2\(2\)\(a\)](#)

**I104** S. 162 in force at 29.1.2007 for E.W. in so far as not already in force by [S.I. 2006/3397](#), [art. 2\(2\)\(a\)](#)

## Miscellaneous and general

### 163 Regulations governing lump sums, periodical payments etc **E+W+S**

- (1) Regulations may make provision (including provision modifying this Part)—
- (a) for cases to which section 150(2) applies in which two or more compensation payments in the form of lump sums are made by the same person in respect of the same injury,
  - (b) for cases to which section 150(2) applies in which an agreement is entered into for the making of—
    - (i) periodical compensation payments (whether of an income or capital nature), or
    - (ii) periodical compensation payments and lump sum compensation payments,
  - (c) for cases in which the compensation payment to which section 150(2) applies is an interim payment of damages which a court orders to be repaid.
- (2) Regulations made by virtue of subsection (1)(a) may (among other things) provide—
- (a) for giving credit for amounts already paid, and
  - (b) for the payment by any person of any balance or the recovery from any person of any excess.
- (3) Regulations may make provision modifying the application of this Part in relation to cases in which a payment into court is made and, in particular, may provide—
- (a) for the making of a payment into court to be treated in prescribed circumstances as the making of a compensation payment,
  - (b) for application for, and issue of, certificates.

### Commencement Information

**I105** S. 163 partly in force; s. 163 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I106** S. 163 in force at 29.1.2007 for E.W. in so far as not already in force by [S.I. 2006/3397](#), [art. 2\(2\)\(a\)](#)

**I107** S. 163(1)(2) in force at 29.1.2007 for S. in so far as not already in force by [S.S.I. 2007/10](#), [art. 2\(2\)\(b\)](#)

### 164 Liability of insurers **E+W+S**

- (1) If a compensation payment is made in a case where—
- (a) a person is liable to any extent in respect of the injury, and
  - (b) the liability is covered to any extent by a policy of insurance,

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the policy is also to be treated as covering any liability of that person under section 150(2).

- (2) Liability imposed on the insurer by subsection (1) cannot be excluded or restricted.
- (3) For that purpose excluding or restricting liability includes—
  - (a) making the liability or its enforcement subject to restrictive or onerous conditions,
  - (b) excluding or restricting any right or remedy in respect of the liability, or subjecting a person to any prejudice in consequence of his pursuing any such right or remedy, or
  - (c) excluding or restricting rules of evidence or procedure.
- (4) Regulations may in prescribed cases limit the amount of the liability imposed on the insurer by subsection (1).
- (5) This section applies in relation to policies of insurance issued before (as well as those issued after) the date on which it comes into force.
- (6) References in this section to policies of insurance and their issue include references to contracts of insurance and their making.

#### Commencement Information

**I108** S. 164 partly in force; s. 164 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I109** S. 164 in force at 29.1.2007 for E.W. in so far as not already in force by S.I. 2006/3397, art. 2(2)(a)

**I110** S. 164 in force at 29.1.2007 for S. in so far as not already in force by S.S.I. 2007/10, art. 2(2)(c)

## 165 Power to apply Part 3 to treatment at non-health service hospitals **E+W+S**

- (1) Regulations may make provision for this Part to apply, with such modifications as may be prescribed, if—
  - (a) a person makes a compensation payment as mentioned in section 150(1)(a), but
  - (b) the person to or in respect of whom the payment is made has—
    - (i) received treatment as a result of the injury at a qualifying hospital under an NHS arrangement,
    - (ii) been provided with NHS ambulance services as a result of the injury for the purpose of taking him to a qualifying hospital for treatment under an NHS arrangement (unless he was dead on arrival at that hospital), or
    - (iii) received treatment as mentioned in sub-paragraph (i) and been provided with NHS ambulance services as mentioned in sub-paragraph (ii),
 (subject to subsection (2)).
- (2) Subsection (1)(b) does not apply where the person to or in respect of whom the payment is made receives, or is taken to a hospital for, treatment which would be provided as mentioned in paragraph (a), (b) or (d) of section 150(7) if it were provided at a health service hospital.
- (3) In subsection (1), “NHS arrangement” means an arrangement or agreement between—



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- (a) the hospital in question or a body responsible for it, and
  - (b) any of the following—
    - (i) a Primary Care Trust,
    - (ii) a National Health Service trust established under [<sup>F69</sup>section 25 of the 2006 Act, section 18 of the National Health Service (Wales) Act 2006] or section 12A of the 1978 Act,
    - (iii) a Local Health Board,
    - (iv) a Health Board or Special Health Board established under section 2 of the 1978 Act, or
    - (v) an NHS foundation trust.
- (4) Regulations under subsection (1) may include provision excluding the application of sections 157 to 159 of the Road Traffic Act 1988 (c. 52) in such description of case as may be prescribed.
- (5) In this section “qualifying hospital” means a hospital (within the meaning of [<sup>F70</sup>section 275(1) of the 2006 Act] or section 108(1) of the 1978 Act) which is not a health service hospital.

#### Textual Amendments

**F69** Words in s. 165(3)(b)(ii) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 250\(a\)](#) (with Sch. 3 Pt. 1)

**F70** Words in s. 165(5) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 250\(b\)](#) (with Sch. 3 Pt. 1)

#### Commencement Information

**I111** S. 165 partly in force; s. 165 in force at Royal Assent for certain purposes, see s. 199(1)(4)

## 166 The Crown **E+W+S**

This Part binds the Crown.

#### Commencement Information

**I112** S. 166 in force at 29.1.2007 for S. by [S.S.I. 2007/10, art. 2\(2\)\(d\)](#)

**I113** S. 166 in force at 29.1.2007 for E.W. by [S.I. 2006/3397, art. 2\(2\)\(b\)](#)

## 167 Regulations **E+W+S**

- (1) Any power to make regulations conferred by this Part is exercisable—
- (a) in relation to England and Wales, by the Secretary of State; and
  - (b) in relation to Scotland, by the Scottish Ministers.
- (2) Regulations under section 157(7) may only be made by the Scottish Ministers with the consent of the Secretary of State.

#### Commencement Information

**I114** S. 167 in force at 29.1.2007 for E.W. in so far as not already in force by [S.I. 2006/3397, art. 2\(2\)\(b\)](#)



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**I115** S. 167 in force at 29.1.2007 for S. in so far as not already in force by S.S.I. 2007/10, **art. 2(2)(d)**

## 168 Interpretation of Part 3 **E+W+S**

In this Part—

“the 1978 Act” means the National Health Service (Scotland) Act 1978 (c. 29);

“compensation payment” has the meaning given in section 150;

“health service hospital” means a health service hospital within the meaning of [<sup>F71</sup>the 2006 Act, the National Health Service (Wales) Act 2006] or the 1978 Act;

“injured person” has the meaning given in section 150(1);

“NHS ambulance services” means ambulance services provided under [<sup>F72</sup>section 3(1)(c) of the 2006 Act, section 3(1)(c) of the National Health Service (Wales) Act 2006] or section 45 of the 1978 Act;

“NHS treatment” has the meaning given in section 150(7);

“prescribed” means prescribed by regulations.

### Textual Amendments

**F71** Words in s. 168 substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 251(a)** (with Sch. 3 Pt. 1)

**F72** Words in s. 168 substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 251(b)** (with Sch. 3 Pt. 1)

### Commencement Information

**I116** S. 168 partly in force; s. 168 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I117** S. 168 in force at 29.1.2007 for E.W. in so far as not already in force by S.I. 2006/3397, **art. 2(2)(b)**

**I118** S. 168 in force at 29.1.2007 for S. in so far as not already in force by S.S.I. 2007/10, **art. 2(2)(d)**

## 169 Consequential and minor repeals **E+W+S**

(1) The Road Traffic (NHS Charges) Act 1999 (c. 3) shall cease to have effect.

(2) In the Road Traffic Act 1988, in section 161(1), in the definition of “hospital”, paragraph (b) is omitted.

### Commencement Information

**I119** S. 169 in force at 29.1.2007 for S. by S.S.I. 2007/10, **art. 2(2)(d)**

**I120** S. 169 in force at 29.1.2007 for E.W. by S.I. 2006/3397, **art. 3(1)** (with art. 4)

*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

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*Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## PART 4 **E+W**

### DENTAL AND MEDICAL SERVICES

#### *Primary dental services*

#### <sup>F73</sup> 170 Provision of primary dental services **E+W**

.....

##### Textual Amendments

**F73** Ss. 170-172 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

#### <sup>F73</sup> 171 Dental public health **E+W**

.....

##### Textual Amendments

**F73** Ss. 170-172 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

#### <sup>F73</sup> 172 General dental services contracts **E+W**

.....

##### Textual Amendments

**F73** Ss. 170-172 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

#### 173 General dental services: transitional **E+W**

- (1) The appropriate authority shall by order make transitional provision in respect of persons who, immediately before the coming into force of section 172, are providing services under section 35 of the 1977 Act (general dental services).
- (2) An order under this section may provide that, in such circumstances as the order may prescribe, a Primary Care Trust or Local Health Board must, if any such person so wishes, enter into a general dental services contract with him; and the order may make provision as to the terms of any such contract.
- (3) An order under this section may provide that, in such circumstances as the order may prescribe, a Primary Care Trust or Local Health Board must, if any such person so wishes, enter into a contract with him, containing such terms as the order may specify, for the provision of dental services.

*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) An order under this section may make provision for the resolution of disputes in relation to any contract entered into, or proposed to be entered into, under subsection (2) or (3), including provision for the determination of disputes by the appropriate authority or a person appointed by the authority.
- (5) An order under this section may make provision in respect of a period beginning before the coming into force of the provision (or of section 172), provided that the provision is not as a whole detrimental to the remuneration of the persons to whom it relates.
- (6) In this section—  
“appropriate authority” means—  
(a) the Secretary of State, in relation to England; and  
(b) the Assembly, in relation to Wales;  
“general dental services contract” means a contract under section 28K of the 1977 Act (as inserted by section 172(1)).

**Commencement Information**

**I121** S. 173 partly in force; s. 173 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I122** S. 173 in force at 1.12.2005 for E. by [S.I. 2005/2925](#), [art. 5\(1\)\(c\)](#)

**I123** S. 173 in force at 15.2.2006 for W. in so far as not already in force by [S.I. 2006/345](#), [art. 3\(1\)\(b\)](#)

*Primary medical services*

<sup>F74</sup>**174 Provision of primary medical services** **E+W**

.....

**Textual Amendments**

**F74** Ss. 174, 175 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

<sup>F74</sup>**175 General medical services contracts** **E+W**

.....

**Textual Amendments**

**F74** Ss. 174, 175 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**176 General medical services: transitional** **E+W**

- (1) The appropriate authority shall by order make transitional provision in respect of persons who, immediately before the coming into force of section 175, are providing services under section 29 of the 1977 Act (general medical services).

*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.*

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- (2) An order under this section may provide that, in such circumstances as the order may prescribe, a Primary Care Trust or Local Health Board must, if any such person so wishes, enter into a general medical services contract with him; and the order may make provision as to the terms of any such contract.
- (3) An order under this section may provide that, in such circumstances as the order may prescribe, a Primary Care Trust or Local Health Board must, if any such person so wishes, enter into a contract with him, containing such terms as the order may specify, for the provision of medical services.
- (4) An order under this section may make provision for the resolution of disputes in relation to any contract entered into, or proposed to be entered into, under subsection (2) or (3), including provision for the determination of disputes by the appropriate authority or a person appointed by the authority.
- (5) An order under this section may make provision in respect of a period beginning before the coming into force of the provision (or of section 175), provided that the provision is not as a whole detrimental to the remuneration of the persons to whom it relates.
- (6) In this section—
  - “appropriate authority” means—
    - (a) the Secretary of State, in relation to England; and
    - (b) the Assembly, in relation to Wales;
  - “general medical services contract” means a contract under section 28Q of the 1977 Act (as inserted by section 175).

**Commencement Information**

- I124** S. 176 partly in force; s. 176 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I125** S. 176 in force at 3.2.2004 for E. by S.I. 2004/288, **art. 3(1)(c)** (with **arts. 7, 8**) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I126** S. 176 in force at 28.2.2004 for W. by S.I. 2004/480, **art. 3(1)(b)** (with **arts. 6, 7**) (as amended by S.I. 2004/1019 and S.I. 2006/345)

*Primary dental and medical services: supplementary*

<sup>F75</sup> **177 Arrangements under section 28C of the 1977 Act** **E+W**

.....

**Textual Amendments**

- F75** Ss. 177-183 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with **Sch. 2 Pt. 1, Sch. 3 Pt. 1**)

<sup>F75</sup> **178 Abolition of pilot schemes** **E+W**

.....

*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F75** Ss. 177-183 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**<sup>F75</sup>179 Persons performing primary medical and dental services** **E+W**

.....

**Textual Amendments**

**F75** Ss. 177-183 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**<sup>F75</sup>180 Assistance and support** **E+W**

.....

**Textual Amendments**

**F75** Ss. 177-183 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

*Dental services: miscellaneous*

**<sup>F75</sup>181 Abolition of Dental Practice Board** **E+W**

.....

**Textual Amendments**

**F75** Ss. 177-183 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**<sup>F75</sup>182 Special Health Authorities** **E+W**

.....

**Textual Amendments**

**F75** Ss. 177-183 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**<sup>F75</sup>183 Charges for dental services** **E+W**

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*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

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*Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F75** Ss. 177-183 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

### General

## 184 Minor and consequential amendments **E+W**

Schedule 11 (which contains minor and consequential amendments relating to this Part) has effect.

### Commencement Information

- I127** S. 184 in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, **art. 3(1)(d)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I128** S. 184 in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, **art. 2(1)(c)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I129** S. 184 in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, **art. 2(1)(b)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I130** S. 184 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, **art. 2(1)(b)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I131** S. 184 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, **art. 2(1)(f)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I132** S. 184 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, **art. 2(1)(c)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I133** S. 184 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, **art. 3(1)(c)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I134** S. 184 in force at 1.3.2004 for specified purposes for E. by S.I. 2004/288, **art. 2(2)(c)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I135** S. 184 in force at 1.3.2004 for specified purposes for E. by S.I. 2004/288, **art. 4(2)(b)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I136** S. 184 in force at 17.1.2005 for specified purposes for E. by S.I. 2005/38, **art. 2(c)** (with art. 3)
- I137** S. 184 in force at 1.12.2005 for specified purposes for E. by S.I. 2005/2925, **art. 4(1)(b)**
- I138** S. 184 in force at 1.12.2005 for specified purposes for E. by S.I. 2005/2925, **art. 5(1)(e)**
- I139** S. 184 in force at 1.12.2005 for specified purposes for E. by S.I. 2005/2925, **art. 4(1)(c)**
- I140** S. 184 in force at 1.12.2005 for specified purposes for E. by S.I. 2005/2925, **art. 6(1)(b)**
- I141** S. 184 in force at 15.2.2006 for specified purposes for W. by S.I. 2006/345, **art. 3(1)(d)**
- I142** S. 184 in force at 15.2.2006 for specified purposes for W. by S.I. 2006/345, **art. 2(1)(b)**
- I143** S. 184 in force at 15.2.2006 for specified purposes for W. by S.I. 2006/345, **art. 4(1)(b)**
- I144** S. 184 in force at 1.4.2006 for specified purposes for W. by S.I. 2006/345, **art. 6(1)**

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## PART 5 **U.K.**

### MISCELLANEOUS

#### *Welfare Food Schemes*

## 185 Replacement of the Welfare Food Schemes: Great Britain **E+W+S**

- (1) In the Social Security Act 1988 (c. 7), for section 13 (schemes for the distribution etc of welfare foods), substitute—

**“13 Benefits under schemes for improving nutrition: pregnant women, mothers and children**

- (1) Regulations may establish one or more schemes to provide benefits for prescribed descriptions of—
- (a) pregnant women,
  - (b) mothers, and
  - (c) children,
- with a view to helping and encouraging them to have access to, and to incorporate in their diets, food of a prescribed description.
- (2) Before establishing, or varying, a scheme the Secretary of State must consult the Scottish Ministers and the National Assembly for Wales (“the Assembly”).
- (3) A scheme may, in particular, specify requirements that must be satisfied—
- (a) before a person may become entitled to a benefit;
  - (b) for a beneficiary to remain entitled to a continuing benefit.
- (4) A scheme may also include provision—
- (a) for a benefit to consist of food of a prescribed description being provided by—
    - (i) a person who supplies, or arranges for the supply of, food of that description for beneficiaries under the scheme;
    - (ii) a person providing a service (such as day care) for the recipient of the benefit; or
    - (iii) a health service body;
  - (b) for the use of vouchers, or similar arrangements, in connection with the provision of benefits;
  - (c) that a person taking part in the scheme, otherwise than as a beneficiary, must be registered under the scheme;
  - (d) for the payment by the Secretary of State of sums to persons registered in accordance with a provision of a kind mentioned in paragraph (c), in respect of things provided or done by them in accordance with the scheme;
  - (e) for the making of payments to such persons entitled to receive benefits as may be determined by or under the scheme;
  - (f) for the delegation, in accordance with provisions of the scheme, of prescribed functions under the scheme;

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- (g) for the scheme, or prescribed provisions of the scheme, to be administered on behalf of the Secretary of State by such health service body, or other description of body, as may be prescribed;
  - (h) requiring prescribed categories of persons to take reasonable steps to provide—
    - (i) to a person authorised for the purpose in accordance with the scheme,
    - (ii) on production, if required, of evidence of his authority, such information or evidence as may be reasonably needed in connection with administering the scheme.
- (5) Provision of a kind mentioned in subsection (4)(h) may, in particular—
- (a) require information or evidence to be provided in a legible form;
  - (b) authorise the taking of copies or making of extracts;
  - (c) require an explanation by the information provider of anything which he has provided;
  - (d) require an information provider to state, to the best of his knowledge and belief, where information or evidence that he has failed to provide is held.
- (6) The power to prescribe descriptions of food (conferred by subsection (1)) is to be exercised, in relation to the operation of a scheme in Wales, by regulations made by the Assembly.
- (7) The Secretary of State may give such directions—
- (a) to a body administering a scheme (or part of a scheme),
  - (b) in relation to matters relating to the operation of the scheme (or that part of the scheme),
- as he considers appropriate.
- (8) The Assembly may, with the agreement of the Secretary of State, give such directions—
- (a) to a body administering a scheme (or part of a scheme),
  - (b) in relation to matters relating to the operation of the scheme (or that part of the scheme) in Wales,
- as it considers appropriate.
- (9) A scheme may direct that prescribed enactments relating to the administration of benefit under the Social Security Administration Act 1992 (c. 5) (including enactments relating to offences and criminal proceedings) are to have effect for the purpose of administering the scheme subject to such modifications (if any) as may be prescribed.
- (10) The Secretary of State may not make a statutory instrument containing the first set of regulations made under subsection (1) unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (11) In this section—
- “benefit”, in relation to a scheme, means a benefit under the scheme;
  - “children” has such meaning as may be prescribed;



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“enactment” includes an Act of the Scottish Parliament and a provision made under an enactment;

“food” includes vitamins, minerals and other dietary supplements;

“health service body” has such meaning as may be prescribed;

“information provider” means the person who is required to provide information or, where that person is a body corporate, any person who is, or at any time has been, an officer or employee of the body corporate;

“pregnant” includes recently pregnant;

“prescribed” means prescribed by regulations;

“regulations”, except in subsection (6), means regulations made by the Secretary of State;

“scheme” means a scheme made under this section;

“women” includes persons under the age of 18.”

(2) In section 15A of that Act—

(a) in subsection (2), after the first “instrument” insert “ made by the Secretary of State ”; and

(b) omit subsection (3).

#### Commencement Information

**I145** S. 185 partly in force; s. 185 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I146** S. 185 in force at 7.10.2005 for specified purposes by S.I. 2005/2278, art. 2(2)(a)

**I147** S. 185 in force at 27.10.2006 in so far as not already in force by S.I. 2006/2817, art. 2(a)

**I148** S. 185(1) in force at 12.8.2005 for specified purposes by S.I. 2005/2278, art. 2(1)

## 186 Replacement of the Welfare Food Schemes: Northern Ireland **E+W+N.I.**

An Order in Council under paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) (legislation for Northern Ireland during suspension of devolved government) which contains a statement that it is made only for purposes corresponding to those of section 185 above—

(a) is not subject to paragraph 2 of that Schedule (affirmative resolution of both Houses of Parliament), but

(b) is subject to annulment in pursuance of a resolution of either House of Parliament.

### *Appointments and employment*

## 187 Appointments to certain health and social care bodies **U.K.**

F76(1) .....

F76(2) .....

F76(3) .....

F76(4) .....

F76(5) .....

*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

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Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F76(6) .....

F76(7) .....

(8) Schedule 12 amends certain enactments which provide for appointments to be made to certain bodies by or on the advice of the Privy Council.

F77(9) .....

F78(10) .....

**Textual Amendments**

**F76** S. 187(1)-(7) repealed (1.10.2006) by Health Act 2006 (c. 28), s. 83(7), Sch. 8 para. 56, **Sch. 9**; S.I. 2006/2603, art. 4(5)(c)(v)(e), Sch.

**F77** S. 187(9) repealed (1.10.2006) by Health Act 2006 (c. 28), s. 83(7), Sch. 8 para. 56, **Sch. 9**; S.I. 2006/2603, art. 4(5)(c)(v)(e), Sch.

**F78** S. 187(10) repealed (1.10.2006) by Health Act 2006 (c. 28), s. 83(7), Sch. 8 para. 56, **Sch. 9**; S.I. 2006/2603, art. 4(5)(c)(v)(e), Sch.

**Commencement Information**

**I149** S. 187 in force at 19.10.2004 by S.I. 2004/2626, **art. 2**

**F79** **188 Appointments to certain health and social care bodies: joint functions** **U.K.**

.....

**Textual Amendments**

**F79** S. 188 repealed (1.10.2006) by Health Act 2006 (c. 28), s. 83(7), Sch. 8 para. 57, **Sch. 9**; S.I. 2006/2603, art. 4(5)(c)(v)(e), Sch.

**Commencement Information**

**I150** S. 188 in force at 19.10.2004 by S.I. 2004/2626, **art. 2**

**189 Validity of clearance for employment in certain NHS posts** **E+W**

F80(1) .....

F80(2) .....

F80(3) .....

F81(4) .....

**Textual Amendments**

**F80** S. 189(1)-(3) repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, art. 2, Sch. (with arts. 5-7) (as amended (30.3.2010) by S.I. 2010/1101, arts. 6-11)

*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

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**F81** S. 189(4) repealed (8.1.2007) by [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#), s. 33, [Sch.](#) (with s. 30(2)-(5))

### *Public Health Laboratory Service Board*

## **190 Abolition of Public Health Laboratory Service Board** **E+W**

- (1) The Public Health Laboratory Service Board is abolished.
- (2) Schedule 13 has effect.
- (3) On the day this section is commenced by order under section 199 the property, rights and liabilities of the Board vest in the Secretary of State.

### **Commencement Information**

**I151** S. 190 in force at 1.4.2005 by [S.I. 2005/457](#), [art. 2\(a\)](#)

### *Other provisions*

PROSPECTIVE

## **<sup>F82</sup>191 Loans by Secretary of State to NHS trusts** **E+W**

.....

### **Textual Amendments**

**F82** S. 191 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

## **<sup>F83</sup>192 Amendment of provision relating to reform of Welsh health authorities** **E+W**

.....

### **Textual Amendments**

**F83** S. 192 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

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## PART 6 U.K.

### FINAL PROVISIONS

#### 193 Financial provisions U.K.

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Secretary of State by virtue of this Act; and
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

#### 194 Interpretation U.K.

In this Act—

- [<sup>F84</sup> “the 2006 Act” means the National Health Service Act 2006];  
 “the Assembly” means the National Assembly for Wales.

#### Textual Amendments

**F84** Words in s. 194 substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 252](#) (with [Sch. 3 Pt. 1](#))

#### <sup>F85</sup> 195 Orders and regulations U.K.

- (1) Any order or regulations under this Act—
  - (a) may make different provision for different purposes; and
  - (b) may make incidental, supplementary, consequential, transitory or transitional or saving provision.
- (2) Any power to make regulations conferred by this Act (as well as being exercisable in relation to all cases to which it extends) may be exercised in relation to all those cases subject to exceptions or in relation to any particular case or class of case.
- (3) Before making any regulations under Part 3 the Secretary of State must consult the Assembly.
- (4) Any power to make an order or regulations under this Act is exercisable by statutory instrument.
- (5) The Secretary of State may not make a statutory instrument containing—
  - (a) regulations under section 150(12),
  - (b) the first regulations made under section 26, 35 or 153(2), or
  - (c) an order or regulations under this Act making, by virtue of subsection (1)(b) or section 200 or 201, provision which amends or repeals any part of the text of an Act (including an Act of the Scottish Parliament),
 unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (6) A statutory instrument containing any other order or regulations under this Act made by the Secretary of State (apart from an order under section 22, 25(3), 28 or 199) is subject to annulment in pursuance of a resolution of either House of Parliament.

*Status: Point in time view as at 06/04/2010. This version of this Act contains provisions that are prospective.*

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- (7) The Scottish Ministers may not make a statutory instrument containing—
- (a) regulations under section 150(12),
  - (b) the first regulations made under section 153(2), or
  - (c) an order or regulations under this Act making, by virtue of subsection (1)(b) or section 200 or 201, provision which amends or repeals any part of the text of an Act (including an Act of the Scottish Parliament),
- unless a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament.
- (8) A statutory instrument containing any other order or regulations under this Act made by the Scottish Ministers (apart from an order under section 199) is subject to annulment in pursuance of a resolution of the Scottish Parliament.

#### Textual Amendments

- F85** By SI 2006/1407, Sch. 1 para 14 it is provided that in s. 195(2) the words "or a power to make an order conferred by Part 1" are inserted after "this Act" (the insertion coming into force immediately before the National Health Service Act comes into force); and by 2006 c. 43, **Sch. 4** it is provided that in s. 195(1) the same words are repealed (1.3.2007)

## 196 Repeals and revocations **U.K.**

The enactments mentioned in Schedule 14 (which include provisions of Acts of the Scottish Parliament) are repealed or revoked to the extent specified.

#### Commencement Information

- I152** S. 196 in force at 1.3.2004 for specified purposes for E. by S.I. 2004/288, **art. 4(2)(c)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I153** S. 196 in force at 1.4.2004 for specified purposes for W. by S.I. 2004/873, **art. 2(e)**
- I154** S. 196 in force at 1.4.2004 for specified purposes for E. by S.I. 2004/288, **art. 6** (with arts. 7-9) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I155** S. 196 in force at 1.4.2004 for specified purposes for E.W. by S.I. 2004/759, **art. 12**
- I156** S. 196 in force at 1.4.2004 for specified purposes for E.W. by S.I. 2004/759, **art. 13(1)**
- I157** S. 196 in force at 1.4.2004 for specified purposes for W. by S.I. 2004/480, **art. 5(1)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I158** S. 196 in force at 17.1.2005 for specified purposes for E. by S.I. 2005/38, **art. 2(d)** (with art. 3)
- I159** S. 196 in force at 1.4.2005 for specified purposes for E.W. by S.I. 2005/457, **art. 2(b)**
- I160** S. 196 in force at 7.10.2005 for specified purposes by S.I. 2005/2278, **art. 2(2)(b)**
- I161** S. 196 in force at 15.2.2006 for specified purposes for W. by S.I. 2006/345, **art. 4(1)(c)**
- I162** S. 196 in force at 1.4.2006 for specified purposes for W. by S.I. 2006/345, **art. 7(1)**
- I163** S. 196 in force at 1.4.2006 for specified purposes by S.I. 2005/2925, **art. 11(1)**
- I164** S. 196 in force at 1.9.2006 for specified purposes for E. by S.I. 2006/1680, **art. 3(d)**
- I165** S. 196 in force at 27.10.2006 for specified purposes by S.I. 2006/2817, **art. 2(b)**
- I166** S. 196 in force at 29.1.2007 for specified purposes for E.W. by S.I. 2006/3397, **art. 3(1)** (with art. 4)
- I167** S. 196 in force at 29.1.2007 for specified purposes for S. by S.I. 2007/10, **art. 2(2)(e)** (with art. 3)

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*Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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## 197 Wales **U.K.**

- (1) In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), any reference to an Act which is amended by this Act shall (as from the time when the Act is so amended) be treated as referring to that Act as amended by this Act.
- (2) Subsection (1) does not affect the power to make further Orders varying or omitting any reference to an Act which is amended by this Act.

## 198 Isles of Scilly **U.K.**

The Secretary of State may by order provide that this Act, in its application to the Isles of Scilly, is to have effect with such modifications as may be specified in the order.

## 199 Commencement **U.K.**

- (1) Subject to this section—
  - (a) the provisions of Part 1 (except section 1 and Schedule 1) and Parts 2 to 5, and
  - (b) section 196 and Schedule 14,
 shall come into force on such day as the appropriate authority may by order appoint.
- (2) The appropriate authority is—
  - (a) in relation to Part 1, and section 196 and Schedule 14 so far as relating to that Part, the Secretary of State;
  - (b) in relation to Part 2—
    - (i) for section 42 and Schedule 7, sections 57 and 61, Chapter 5, sections 102 to 105, 110, 112, 116(1), 124, 125, 127, 129, 131, 133, 135, 139 and 141, section 147 and Schedule 9 so far as relating to the Commission for Social Care Inspection, and section 196 and Schedule 14 so far as relating to those provisions, the Secretary of State;
    - (ii) for sections 47 and 63, Chapters 4 and 6, sections 109, 116(2), 142 to 145 and section 196 and Schedule 14 so far as relating to those provisions, the Assembly;
    - (iii) for sections 106 to 108, 111, 113, 114, 115, 116(3), 117, section 147 and paragraph 4 of Schedule 9 and section 196 and Schedule 14 so far as relating to those provisions, the Secretary of State, in relation to England, and the Assembly, in relation to Wales; and
    - (iv) for the other provisions of the Part, and section 196 and Schedule 14 so far as relating to those provisions, the Secretary of State after consulting the Assembly;
  - (c) in relation to Part 3, and section 196 and Schedule 14 so far as relating to that Part—
    - (i) in relation to England and Wales, the Secretary of State after consulting the Assembly; and
    - (ii) in relation to Scotland, the Scottish Ministers with the consent of the Secretary of State;
  - (d) in relation to section 181, and section 196 and Schedule 14 so far as relating to section 181, the Secretary of State;

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- (e) in relation to the other provisions of Part 4, and section 196 and Schedule 14 so far as relating to those provisions—
    - (i) in relation to England, the Secretary of State; and
    - (ii) in relation to Wales, the Assembly;
  - (f) in relation to Part 5, and section 196 and Schedule 14 so far as relating to that Part, the Secretary of State.
- (3) Different days may be appointed for different purposes.
- (4) Subsection (1) does not apply in relation to any provision of this Act so far as it confers power to make an order or regulations, or to section 167, 186 or 192.

## 200 Transitional or transitory provision and savings **U.K.**

- (1) The appropriate authority may by order make such transitional or transitory provisions and savings as the authority considers appropriate in connection with the coming into force of any provision of this Act.
- (2) For the purposes of this section “appropriate authority”, in relation to any provision of this Act, means the authority which is the appropriate authority in relation to that provision for the purposes of section 199.
- (3) An order under this section may modify any Act (including an Act of the Scottish Parliament) or subordinate legislation.
- (4) Nothing in any transitional or transitory provisions and savings contained in this Act restricts the power under this section to make other transitional provisions and savings.

## 201 Supplementary and consequential provision **U.K.**

- (1) The appropriate authority may by order make such supplementary, incidental or consequential provision as he or it thinks appropriate for the purposes of, in consequence of or for giving full effect to any provision of this Act.
- (2) For the purposes of this section “appropriate authority”, in relation to any provision of this Act, means the authority which is the appropriate authority in relation to that provision for the purposes of section 199.
- (3) An order under this section may modify any Act (including an Act of the Scottish Parliament) or subordinate legislation.
- (4) The power under this section is not restricted by any other provision of this Act.

### Modifications etc. (not altering text)

- C5** S. 201 modified (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 2 para. 1\(6\)\(e\)](#) (with [Sch. 3 Pt. 1](#))

## 202 Extent **U.K.**

- (1) The amendment or repeal of any provision by this Act has the same extent as the provision being amended or repealed (subject to any express limitation contained in this Act).

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- (2) Subject to that and except as provided below this Act extends to England and Wales only.
- (3) The following provisions also extend to Scotland—
- (a) sections 124 and 125;
  - (b) Part 3, except for section 163(3);
  - (c) sections 185, 187 and 188 and Schedule 12;
  - (d) this Part.
- (4) The following provisions also extend to Northern Ireland—
- (a) sections 124 and 125;
  - (b) section 186;
  - (c) sections 187, 188 and Schedule 12;
  - (d) this Part.

**203 Short title** **U.K.**

This Act may be cited as the Health and Social Care (Community Health and Standards) Act 2003.



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