



National Health Service Act 2006

2006 CHAPTER 41

PART 14

SUPPLEMENTARY

271 Territorial limit of exercise of functions

- (1) The functions of a Minister of the Crown under this Act are exercisable only in relation to England.
- (2) “Minister of the Crown” includes the Treasury.
- (3) Subsection (1) does not apply in relation to—
 - (a) section 8(1) (directions to health service bodies) to such extent as it allows directions to be given in respect of matters concerning xenotransplantation, surrogacy agreements, embryology or human genetics,
 - (b) Chapter 5 of Part 1 (NHS foundation trusts),
 - [^{F1}(c) section 169(3) (power of the Secretary of State to direct that the First-tier Tribunal exercise functions in relation to appeals),]
 - (d) section 235 (superannuation of officers of certain hospitals),
 - ^{F2}(e)
 - ^{F3}(f)
 - [^{F4}(fa) sections 250B to 250D (National Information Governance Board),]
 - (g) sections 251 (control of patient information) and [^{F5}252 (consultation with National Information Governance Board)] ,
 - (h) Schedule 21 (prohibition as to the sale of medical practices),
 - (i) section 260 and Schedule 22 (control of maximum price of medical supplies other than health service medicines) and sections 261 to 266 (control of prices of medicines and profits),

and section 272(7) and (8), to the extent that they apply in relation to a provision mentioned in any of paragraphs (a) to (i).

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Changes to legislation: National Health Service Act 2006, Part 14 is up to date with all changes known to be in force on or before 09 June 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

- F1** S. 271(3)(c) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 125** (with Sch. 5)
- F2** S. 271(3)(e) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 18 Pt. 18**; S.I. 2008/461, art. 2(3), Sch.
- F3** S. 271(3)(f) repealed (30.6.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 18 Pt. 18**; S.I. 2008/461, art. 4(b)(c)
- F4** S. 271(3)(fa) inserted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), **Sch. 14 para. 5(a)**; S.I. 2008/2497, art. 7(2)(c)
- F5** Words in s. 271(3)(g) substituted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), **Sch. 14 para. 5(b)**; S.I. 2008/2497, art. 7(2)(c)

272 Orders, regulations, rules and directions

- (1) This section does not apply to—
 - (a) Chapter 5 of Part 2 (as to which, see section 64), and
 - (b) Part 10 (as to which, see section 209).
- (2) Subject to subsection (3), any power under this Act to make an order, rules or regulations is exercisable by statutory instrument.
- (3) Subsection (2) does not apply to an order under—
 - (a) section 66(2),
 - (b) section 95(1) or 110(1),
 - (c) section 211(4),
 - (d) paragraph 22, 23, 24 or 26 of Schedule 3,
 - (e) paragraph 9, 27 or 29 of Schedule 4, or
 - (f) paragraph 2 of Schedule 18.
- (4) Subject to subsections (5)^[F6], (6) and (6A)] , a statutory instrument made by virtue of this Act is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Subsection (4) does not apply to a statutory instrument containing a PCT order, or an order under—
 - (a) section 25,
 - ^[F7](aa) section 52D(1) or (7) or 52E(6),
 - (ab) section 65B(1), 65E(1), 65J(2), 65L(2), (4) or (5), or 65V(2),]
 - (b) Schedule 4, or
 - (c) paragraph 1(1) of Schedule 5.
- (6) A statutory instrument containing—
 - ^[F8](za) an order under section 12C(8) or (10),]
 - (a) regulations under section 251, except where they are made by virtue of subsection (5)(b) of that section,
 - (b) an order under section 265(10), or
 - (c) an order under section 193(4),

may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.

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[^{F9}(6A) A statutory instrument containing an order under section 52D(1), 52E(6), 65B(1), 65E(1), 65J(2), 65L(2) or (4) or 65V(2) must be laid before Parliament after it is made.]

(7) Any power under this Act to make orders, rules, regulations or schemes, and any power to give directions—

- (a) may be exercised either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case,
- (b) may be exercised so as to make, as respects the cases in relation to which it is exercised—
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case, or different provision as respects the same case or class of case for different purposes of this Act,
 - (iii) any such provision either unconditionally or subject to any specified condition, and
- (c) may, in particular, except where the power is a power to make rules, make different provision for different areas.

(8) Any such power includes power—

- (a) to make such incidental, supplementary, consequential, saving or transitional provision (including, in the case of a power to make an order or regulations, provision amending, repealing or revoking enactments) as the person or body exercising the power considers to be expedient, and
- (b) to provide for a person to exercise a discretion in dealing with any matter.

(9) Subsections (7) and (8) do not apply to an order under section 260 (but this does not affect subsection (1) of that section).

Textual Amendments

- F6** Words in s. 272(4) substituted (15.2.2010 for specified purposes) by [Health Act 2009 \(c. 21\)](#), **ss. 18(8)(a)**, 40(1); [S.I. 2010/30](#), art. 3(b)
- F7** S. 272(5)(aa)(ab) inserted (15.2.2010 for specified purposes) by [Health Act 2009 \(c. 21\)](#), **ss. 18(8)(b)**, 40(1); [S.I. 2010/30](#), art. 3(b)
- F8** S. 272(6)(za) inserted (19.1.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), **Sch. 1 para. 10**; [S.I. 2010/30](#), art. 2(b)
- F9** S. 272(6A) inserted (15.2.2010 for specified purposes) by [Health Act 2009 \(c. 21\)](#), **ss. 18(8)(c)**, 40(1); [S.I. 2010/30](#), art. 3(b)

Modifications etc. (not altering text)

- C1** S. 272 applied (1.3.2007) by [National Health Service \(Wales\) Act 2006 \(c. 42\)](#), **ss. 208(1)**, **209(4)** (with s. 19(3))
- C2** S. 272(7)(8) applied by [2006 c. 28, s. 70\(3\)](#) (as substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act \(c. 43\)](#), Sch. 1 para. 285 (with Sch. 3 Pt. 1))

273 Further provision about orders and directions under this Act

(1) Where under or by virtue of any provision of this Act—

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- (a) an order may be made, or
 - (b) directions may be given,
- that provision includes power to vary or revoke the order or directions by subsequent order or by subsequent directions.
- (2) Subsection (1) does not affect section 14(b) of the Interpretation Act 1978 (c. 30).
- (3) A direction under this Act by a Strategic Health Authority must be given by an instrument in writing.
- (4) A direction under this Act by the Secretary of State must be given—
- (a) (subject to paragraphs (b) and (c)) by an instrument in writing,
 - (b) in the case of a direction under—
 - (i) section 7 about a function under section 4, 197 or 198, or
 - (ii) section [F10]169(3) or] 199(2),
 by regulations,
 - (c) in the case of—
 - (i) any other direction under section 7, or
 - (ii) a direction under section 8, 15, 87, 94(4), 103, 109(4) [F11]or 120] ,
 by regulations or an instrument in writing.
- (5) Subsection (4) does not apply to a direction under section 88 (as to which, see that section).

Textual Amendments

F10 Words in s. 273(4)(b)(ii) inserted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 126\(a\)](#) (with Sch. 5)

F11 Words in s. 273(4)(c)(ii) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 126\(b\)](#) (with Sch. 5)

Modifications etc. (not altering text)

C3 S. 273 applied (1.3.2007) by [National Health Service \(Wales\) Act 2006 \(c. 42\)](#), ss. 208(1), [209\(4\)](#) (with s. 19(3))

274 Supplementary regulatory powers

Regulations may provide for—

- (a) prescribing the forms and manner of service of notices and other documents,
- (b) prescribing the manner in which documents may be executed or proved,
- (c) exempting judges and justices of the peace from disqualification by their liability to rates.

275 Interpretation

- (1) In this Act (except where the context otherwise requires)—

“dental practitioner” means a person registered in the dentists register under the Dentists Act 1984 (c. 24),

“facilities” includes the provision of (or the use of) premises, goods, materials, vehicles, plant or apparatus,

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F12
...

“financial year” means a period of 12 months ending with 31st March in any year,

“functions” includes powers and duties,

“goods” include accommodation,

“the health service” means the health service continued under section 1(1) and under section 1(1) of the National Health Service (Wales) Act 2006 (c. 42),

“health service hospital” means a hospital vested in the Secretary of State for the purposes of his functions under this Act or vested in a Primary Care Trust, an NHS trust or an NHS foundation trust,

“hospital” means—

- (a) any institution for the reception and treatment of persons suffering from illness,
- (b) any maternity home, and
- (c) any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation,

and includes clinics, dispensaries and out-patient departments maintained in connection with any such home or institution, and “hospital accommodation” must be construed accordingly,

“illness” includes [F13any disorder or disability of the mind] and any injury or disability requiring medical or dental treatment or nursing,

“local authority” means a county council, a county borough council, a district council, a London borough council, and the Common Council of the City of London,

F14
...

“Local Health Board” means a body established under section 11 of the National Health Service (Wales) Act 2006 (c. 42),

“local pharmaceutical services” means such services as are prescribed under section 134(7) or paragraph 1(7) of Schedule 12,

“local social services authority” means the council of a non-metropolitan county, of a county borough or of a metropolitan district or London borough, or the Common Council of the City of London,

“medical” includes surgical,

“medical practitioner” means a registered medical practitioner within the meaning of Schedule 1 to the Interpretation Act 1978 (c. 30),

“medicine” includes such chemical re-agents as are included in a list approved by the Secretary of State for the purposes of section 126,

“modifications” includes additions, omissions and amendments,

“NHS trust” includes an NHS trust established under the National Health Service (Wales) Act 2006 [F15and, subject to Schedule 8A, a body that becomes a National Health Service trust by virtue of an order made under section 52D(1) or 65E(1),]

“officer” includes servant,

“optometrist” means a person registered in the register of optometrists maintained under section 7 of the Opticians Act 1989 (c. 44) [F16, or in the register of visiting optometrists from relevant European States maintained under section 8B(1)(a) of that Act,] or a body corporate registered in the

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register of bodies corporate maintained under section 9 of that Act carrying on business as an optometrist,

“patient” includes a woman who is pregnant or breast-feeding or who has recently given birth,

“prescribed” means prescribed by regulations made by the Secretary of State,

“property” includes rights,

[^{F17}“registered pharmacist” means a pharmacist registered in Part 1 [^{F18}or 3] of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007;]

[^{F19}“Regulation (EC) No. 883/2004” means Regulation (EC) No. 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems,]

“regulations” means regulations made by the Secretary of State,

“Special Health Authority” includes a Special Health Authority established under the National Health Service (Wales) Act 2006,

“university” includes a university college,

“voluntary organisation” means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.

[^{F20}“Welsh new towns residuary body” means the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a) (i) to (iii) of the New Towns Act 1981.]

- (2) In this Act (except where the context otherwise requires) any reference to a body established under this Act or the National Health Service (Wales) Act 2006 (c. 42) includes a reference to a body continued in existence by virtue of this Act or that Act.
- (3) So far as is necessary or expedient in consequence of a direction under section 7 or 15 providing for the exercise by a Strategic Health Authority, Primary Care Trust or Special Health Authority of a function exercisable by another person or body, any reference in any enactment, instrument or other document to that other person or body must be read as a reference to the Strategic Health Authority, Primary Care Trust or Special Health Authority.
- (4) Any reference in this Act to the purposes of a hospital is a reference to its general purposes and to any specific purpose.

Textual Amendments

- F12** Words in s. 275(1) omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 127** (with Sch. 5)
- F13** Words in s. 275(1) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), s. 56(1), **Sch. 1 para. 24**; S.I. 2008/1900, art. 2(a) (with art. 3, Sch.)
- F14** Words in s. 275(1) repealed (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, Sch. 2 para. 60(4), **Sch. 3 Pt. 2**
- F15** Words in s. 275(1) inserted (15.2.2010 for specified purposes) by [Health Act 2009 \(c. 21\)](#), ss. **18(9)**, 40(1); S.I. 2010/30, art. 3(b)
- F16** Words in s. 275(1) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **203**
- F17** Words in s. 275(1) substituted (30.3.2007 as notified in the Gazette) by [Pharmacists and Pharmacy Technicians Order 2007 \(S.I. 2007/289\)](#), art. 1(2)(3), **Sch. 1 para. 10(4)**

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- F18** Words in s. 275(1) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **104**
- F19** Words in s. 275(1) inserted (1.6.2010) by [The National Health Service \(Reimbursement of the Cost of EEA Treatment\) Regulations 2010 \(S.I. 2010/915\)](#), regs. 1(1), **4**
- F20** Words in s. 275(1) inserted (1.12.2008) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2008 \(S.I. 2008/3002\)](#), art. 1(2), **Sch. 1 para. 54** (with Sch. 2) (see S.I. 2008/3068, art. 2(1)(b))

Modifications etc. (not altering text)

- C4** S. 275 modified (temp.) (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 3 para. 4** (with Sch. 3 Pt. 1)
- C5** S. 275 modified (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 2 para. 11** (with Sch. 3 Pt. 1)

276 Index of defined expressions

In this Act the following expressions are defined or otherwise explained by the provisions indicated—

body established under this Act	section 275(2)
commissioner, in relation to an NHS contract	section 9(1)
contractor, in relation to a general dental services contract	section 100(4)
contractor, in relation to a general medical services contract	section 84(5)
contractor, in relation to a general ophthalmic services contract	section 117(5)
fraud case	section 151(3)
general dental services contract	section 100(2)
general medical services contract	section 84(2)
general ophthalmic services contract	section 117(2)
NHS body	section 28(6)
LPS scheme	paragraph 1(2) of Schedule 12
NHS contract	section 9(1)
NHS trust order	section 25(2)
optical appliances	section 179(5)
PCT order	section 18(2)
pharmaceutical list	section 129(11)
pharmaceutical services	section 126(8)
F21	F21
...	...
practitioner	section 151(9)

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primary dental services	section 99
primary medical services	section 83
primary ophthalmic services	section 115
provider, in relation to an NHS contract	section 9(1)
purposes of a hospital	section 275(4)
the regulator	section 31(1)
relevant dental service	section 176(4)
section 92 arrangements	section 92(8)
section 107 arrangements	section 107(8)
special trustees	section 212(1)
supplementary list	section 149(2)
terms of service	section 148(7)
unsuitability case	section 151(4)

Textual Amendments

F21 S. 276 entry repealed (19.1.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), [Sch. 1 para. 11](#), [Sch. 6](#); [S.I. 2010/30](#), art. 2(b)

277 Commencement

- (1) Subject to this section, this Act comes into force on 1st March 2007.
- (2) In this section—
 - “the 1977 Act” means the National Health Service Act 1977 (c. 49), and
 - “the 2006 Act” means the Health Act 2006 (c. 28).
- (3) Subsection (4) applies to—
 - (a) sections 33 and 35 to 38 of the Health Act 1999 (c. 8) (see sections 261 and 263 to 266 of this Act),
 - (b) subsection (7) of section 45 of the Nationality, Immigration and Asylum Act 2002 (c. 41) and paragraph 2(2B) of Schedule 8 to the 1977 Act as substituted by that subsection (see paragraph 2(7) of Schedule 20 to this Act),
 - (c) section 21 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) (see section 50 of this Act),
 - (d) paragraph 3 of the Schedule to the Smoking, Health and Social Care (Scotland) Act 2005 (Consequential Modifications) (England, Wales and Northern Ireland) Order 2006 (S.I. 2006/1056) and section 41B(2) and (6)(b) of the 1977 Act as amended by that paragraph (see section 128 of this Act),
 - (e) sub-paragraphs (a) and (b) of paragraph 5 of that Schedule and section 4A(1) and (3) of the National Health Service and Community Care Act 1990 (c. 19) as amended by those sub-paragraphs (see section 11 of this Act),
 - (f) sub-paragraph (c) of paragraph 5 of that Schedule and section 4A(4) of the National Health Service and Community Care Act 1990 as added by that sub-paragraph (see section 11 of this Act),

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- (g) section 34 of the 2006 Act, and section 42A of the 1977 Act as inserted by that section (see section 131 of this Act),
 - (h) section 35 of the 2006 Act, and subsections (2B) and (2C) of section 42 of the 1977 Act as inserted by that section (see section 129 of this Act),
 - (i) subsection (1) of section 36 of the 2006 Act, and section 43(2) of the 1977 Act as substituted by that subsection (see section 132 of this Act),
 - (j) sections 37 to 41 of, and paragraphs 7 to 9, 11, 12(a), 13(2), (5) and (6), 15, 16, 17, 21(b), 22, 29, 46 and 50 of Schedule 8 to, the 2006 Act (which relate to primary ophthalmic services) and—
 - (i) the 1977 Act,
 - (ii) section 4A of the National Health Service and Community Care Act 1990,
 - (iii) Schedule 1 to the Health and Social Care Act 2001 (c. 15), and
 - (iv) section 17(1) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17),to the extent that a provision mentioned in any of sub-paragraphs (i) to (iv), as amended by any of those provisions of the 2006 Act, relates to primary ophthalmic services,
 - (k) subsection (2) of section 42 of the 2006 Act, and paragraph 2A(1)(b) and (ba) of Schedule 12 to the 1977 Act as substituted by that subsection (see section 180 of this Act),
 - (l) subsection (3) of section 42 of the 2006 Act, and paragraph 2B of Schedule 12 to the 1977 Act as inserted by that subsection (see section 181 of this Act),
 - (m) sections 44 to 55 of the 2006 Act, and sections 76 to 78 of that Act so far as relating to those sections (see Part 10 of this Act),
 - (n) section 56 of, and paragraph 24(a) of Schedule 8 to, that Act and—
 - (i) section 98 of the 1977 Act as substituted by section 56 of that Act, and
 - (ii) Schedule 12B to the 1977 Act as inserted by that section,(see section 232 of, and Schedule 15 to, this Act), and
 - (o) paragraphs 14, 24(b) and 25 of Schedule 8 to the 2006 Act (which relate to the substitution of “optometrist” for “ophthalmic optician”) and the 1977 Act as amended by those paragraphs.
- (4) To the extent that—
- (a) this Act re-enacts a provision to which this subsection applies, and
 - (b) the provision has not come into force before the commencement of this Act, the re-enactment by this Act of the provision does not come into force until the provision which is re-enacted comes into force; and the re-enactment comes into force immediately after, and to the extent that, the provision which is re-enacted comes into force.
- (5) Accordingly, the re-enactment by this Act of the provision does not affect any power to bring the provision into force.

278 Short title, extent and application

- (1) This Act may be cited as the National Health Service Act 2006.
- (2) Subject to this section, this Act extends to England and Wales only.

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- (3) Sections 261 to 266 in Part 13 (price of medical supplies) extend also to Scotland and Northern Ireland.
- (4) The Secretary of State may by order provide that this Act, in its application to the Isles of Scilly, has effect with such modifications as may be specified in the order.

Status:

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Changes to legislation:

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