



National Health Service Act 2006

2006 CHAPTER 41

PART 9

CHARGING

Power to charge generally

172 Charges for drugs, medicines or appliances, or pharmaceutical services

- (1) Regulations may provide for the making and recovery in such manner as may be prescribed of such charges as may be prescribed in respect of—
 - (a) the supply under this Act (otherwise than under Chapter 1 of Part 7) of drugs, medicines or appliances (including the replacement and repair of those appliances), and
 - (b) such of the pharmaceutical services referred to in that Chapter as may be prescribed.
- (2) Regulations under this section may in particular make provision in relation to the supply of contraceptive substances and appliances under paragraph 8 of Schedule 1.
- (3) This section does not apply in relation to the provision of any relevant dental service (within the meaning of section 176).

173 Exemptions from general charging

- (1) No charge may be made under regulations under section 172(1) in respect of—
 - (a) the supply of any drug, medicine or appliance for a patient who is resident in hospital,
 - (b) the supply of any drug or medicine for the treatment of sexually transmitted disease (otherwise than in the provision of primary medical services or in accordance with a pilot scheme [^{F1}established under section 134(1) of this Act] or an LPS scheme),

Status: Point in time view as at 31/12/2020.

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- (c) the supply of any appliance (otherwise than in pursuance of paragraph 8(d) of Schedule 1) for a person who is under 16 years of age or is under 19 years of age and receiving qualifying full-time education, or
 - (d) the replacement or repair of any appliance in consequence of a defect in the appliance as supplied.
- (2) In subsection (1)(c) “qualifying full-time education” means full-time instruction at a recognised educational establishment or by other means accepted as comparable by the Secretary of State.
- (3) For the purposes of subsection (2)—
- (a) “recognised educational establishment” means an establishment recognised by the Secretary of State as being, or as comparable to, a school, college or university, and
 - (b) regulations may prescribe the circumstances in which a person must, or must not, be treated as receiving full-time instruction.

Textual Amendments

- F1** Words in s. 173(1)(b) inserted (19.1.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), [Sch. 1 para. 7\(c\)](#); [S.I. 2010/30](#), art. 2(b)

174 Pre-payment certificates

- (1) Regulations under section 172(1) may provide for the grant, on payment of such sums as may be prescribed, of a pre-payment certificate.
- (2) A pre-payment certificate is a certificate which confers on the person to whom it is granted exemption from charges otherwise chargeable under the regulations in respect of drugs, medicines and appliances supplied during such period as may be prescribed.
- (3) Different sums may be prescribed in relation to different periods.

175 Charges in respect of non-residents

- (1) Regulations may provide for the making and recovery, in such manner as may be prescribed, of such charges as the Secretary of State may determine in respect of the services mentioned in subsection (2).
- (2) The services are such services as may be prescribed which are—
 - (a) provided under this Act, and
 - (b) provided in respect of such persons not ordinarily resident in Great Britain as may be prescribed.
- (3) Regulations under this section may provide that the charges may be made only in such cases as may be determined in accordance with the regulations.
- (4) The Secretary of State may calculate charges under this section on any basis that he considers to be the appropriate commercial basis.

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Charging for dental services

176 Dental charging

- (1) Regulations may provide for the making and recovery, in such manner as may be prescribed, of charges for relevant dental services.
- (2) Regulations under subsection (1) may in particular include provision—
 - (a) specifying the amount, or maximum amount, of any charge (or aggregate charge in respect of the provision for two or more relevant dental services),
 - (b) for calculating the amount of any charge,
 - (c) for the variation of the amount, or maximum amount, of any charge in cases of a prescribed description,
 - (d) for any charge not to be payable in cases of a prescribed description,
 - (e) for power to direct that a charge is not payable in any particular case,
 - (f) for the repayment of any charge (including provision as to the persons by whom, and manner in which, repayments must be made).
- (3) Regulations under subsection (1) may provide for sums which would otherwise be payable by [^{F2}the Board] to persons providing relevant dental services to be reduced by the amount of the charges authorised by the regulations.
- (4) In this section and section 177 “relevant dental services” means—
 - (a) dental treatment provided—
 - ^{F3}(i)
 - (ii) under a general dental services contract, or
 - (iii) in accordance with section 107 arrangements, and
 - (b) the supply of dentures and other dental appliances under this Act.
- (5) Any reference in this section or 177 to the supply of an appliance includes a reference to its repair, adjustment, refitting or replacement and, in the case of dentures, to their being relined or having additions made to them.

Textual Amendments

- F2** Words in s. 176(3) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 94\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F3** S. 176(4)(a)(i) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 94\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

177 Exemptions from dental charging

- (1) No charge may be made under regulations under section 176(1) in respect of a relevant dental service provided for any person who at the prescribed time—
 - (a) was under 18,
 - (b) was under 19 and receiving qualifying full-time education,
 - (c) was pregnant, or
 - (d) had given birth to a child within the previous 12 months.
- (2) No charge may be made under regulations under section 176(1) in respect of—
 - (a) the repair or replacement of any appliance,

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- (b) any appliance supplied to a patient who is resident in a hospital,
 - (c) the arrest of bleeding.
- (3) Subsections (1) and (2)(a) do not apply in relation to—
- (a) the repair or replacement of any appliance of a prescribed description,
 - (b) the repair or replacement of any appliance where it is determined in the prescribed manner—
 - (i) in any case, that the repair or replacement was necessitated by an act or omission of the person supplied, or
 - (ii) in a case where the person supplied was under the age of 16, that the repair or replacement was necessitated by an act or omission, occurring while that person was under that age, of a person having charge of him.
- (4) Subsection (2)(b) does not apply where an appliance is supplied—
- ^{F4}(a)
 - (b) under a general dental services contract, or
 - (c) in accordance with section 107 arrangements.
- (5) Regulations may provide, with respect to any exemption under this section, that it must be a condition of the exemption that—
- (a) a declaration of the prescribed kind is made in the prescribed form and manner,
 - (b) a certificate or other evidence of the prescribed kind is supplied in the prescribed form and manner.
- (6) In subsection (1)(b) “qualifying full-time education” means full-time instruction at a recognised educational establishment or by other means accepted as comparable by the Secretary of State.
- (7) For the purposes of subsection (6)—
- (a) “recognised educational establishment” means an establishment recognised by the Secretary of State as being, or as comparable to, a school, college or university, and
 - (b) regulations may prescribe the circumstances in which a person must, or must not, be treated as receiving full-time instruction.
- (8) In subsection (1)(d), “child” includes a still-born child (within the meaning of the Births and Deaths Registration Act 1953 (c. 20).

Textual Amendments

- F4** S. 177(4)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 95](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Charging for local pharmaceutical services

178 Charges, recovery of payments and penalties

- (1) Regulations may provide for the making and recovery, in such manner as may be prescribed, of charges for—
- (a) local pharmaceutical services provided under pilot schemes, or

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- (b) local pharmaceutical services provided under LPS schemes.
- (2) The regulations may in particular provide for—
 - (a) exemptions from charges,
 - (b) the liability to pay charges to be disregarded in prescribed circumstances or for prescribed purposes,
 - (c) section 192 (recovery of certain charges and payments) to apply also in relation to local pharmaceutical services (with or without modification),
 - (d) section 193 (penalties) to apply also in relation to local pharmaceutical services (with or without modification).
- (3) The regulations must secure that the amount charged for any service is the same as the amount that would be charged for that service if it were provided under Chapter 1 of Part 7.

Charging for optical appliances

179 Charges for optical appliances

- (1) Regulations may provide for the making and recovery, in such manner as may be prescribed, of charges in respect of the supply under this Act of optical appliances.
- (2) The amount of the charges may be determined—
 - (a) in regulations, or
 - (b) by or in accordance with directions given by the Secretary of State.
- (3) Regulations or directions may—
 - (a) vary the amount or maximum amount of charges, or
 - (b) provide that the charges are not payable.
- (4) A reference to supply includes a reference to replacement.
- (5) In this Act “optical appliances” means glasses and contact lenses, but regulations may provide for a different definition of optical appliances to have effect for the purposes of this Act.

180 [F⁵Payments in respect of costs of optical appliances and sight tests]

- (1) The Secretary of State must provide by regulations for payments to be made by [F⁶the Board] to meet, or to contribute towards, the cost incurred (whether by way of charge under this Act or otherwise) for the supply of optical appliances for which—
 - (a) a prescription has been given for a person mentioned in subsection (2) in consequence of a sight test under this Act, or
 - (b) a prescription has been given for a person mentioned in subsection (2) in consequence of a sight test otherwise than under this Act which took place in prescribed circumstances.
- (2) The persons are—
 - (a) a child,
 - (b) a person whose resources fall to be treated under the regulations as being less than or equal to his requirements,
 - F⁷(c)

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- (d) a person of such other description as may be prescribed.
- (3) The Secretary of State may by regulations—
- [^{F8}(za) provide for payments to be made by the Board to meet, or to contribute towards, any cost accepted by the Board as having been incurred for the cost of a sight test of a person who—
- (i) falls within section 115(2)(c), but
 - (ii) at the time of the test has not been issued with a notice by the Secretary of State of entitlement to receive assistance in respect of the cost of a sight test (or has been issued with such a notice but has yet to receive it),]
- (a) provide for [^{F9}the Board] to contribute to the cost of a sight test which [^{F10}the Board] accepts as having been incurred by a person whose resources fall to be treated under the regulations as exceeding his requirements but only by an amount calculated under the regulations, and
- (b) provide for payments to be made by [^{F11}the Board] to meet, or to contribute towards, any cost accepted by [^{F12}the Board] as having been incurred (whether by way of charge under this Act or otherwise) for the replacement or repair in prescribed circumstances of optical appliances for which a prescription was given in consequence of a sight test of a person of a prescribed description.
- [^{F13}(3A) The amount of a payment by virtue of subsection (3)(za) or (a) must not exceed the amount for the time being set in regulations under this section as the applicable fee in the case in question for the provision of the sight-testing service under section 115(1) (a).]
- (4) Regulations under this section may direct how a person's resources and requirements must be calculated and may, in particular, direct that they must be calculated—
- (a) by a method set out in the regulations,
 - (b) by a method described by reference to a method of calculating or estimating income or capital specified in an enactment other than this section or in an instrument made under an Act of Parliament or by reference to such a method but subject to prescribed modifications,
 - (c) by reference to an amount applicable for the purposes of a payment under an Act of Parliament or an instrument made under an Act of Parliament, or
 - (d) by reference to the person's being or having been entitled to payment under an Act of Parliament or an instrument made under an Act of Parliament.
- (5) Descriptions of persons may be prescribed for the purposes of this section by reference to any criterion and, in particular, by reference to any of the following criteria—
- (a) their age,
 - (b) the fact that a prescribed person or a prescribed body accepts them as suffering from a prescribed medical condition,
 - (c) the fact that a prescribed person or a prescribed body accepts that a prescribed medical condition from which they suffer arose in prescribed circumstances,
 - (d) their receipt of benefit in money or in kind under any enactment or their entitlement to receive any such benefit,
 - (e) the receipt of any such benefit by other persons satisfying prescribed conditions or the entitlement of other persons satisfying prescribed conditions to receive such benefits, and

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- (f) the relationship, as calculated in accordance with the regulations by a prescribed person, between their resources and their requirements.
- (6) Regulations under this section which refer to an Act of Parliament or an instrument made under an Act of Parliament may direct that the reference must be construed as a reference to that Act or instrument—
 - (a) as it has effect at the time when the regulations are made, or
 - (b) both as it has effect at that time and as amended subsequently.
- [^{F14}(6A) The Board may direct a Special Health Authority, or such other body as may be prescribed, to exercise any of the Board's functions under regulations under this section.]
- (7) In subsection (2)(a) “child” means—
 - (a) a person who is under the age of 16 years, or
 - (b) a person who is under the age of 19 years and receiving qualifying full-time education.
- (8) In subsection (7)(b) “qualifying full-time education” means full-time instruction at a recognised educational establishment or by other means accepted as comparable by the Secretary of State.
- (9) For the purposes of subsection (8)—
 - (a) “recognised educational establishment” means an establishment recognised by the Secretary of State as being, or as comparable to, a school, college or university, and
 - (b) regulations may prescribe the circumstances in which a person must, or must not, be treated as receiving full-time instruction.
- ^{F15}(10)
- (11) Sums falling to be paid in pursuance of regulations under this section are payable subject to such conditions as to records, certificates or otherwise as the Secretary of State may determine [^{F16}in accordance with the regulations].
- ^{F17}(12)

Textual Amendments

- F5** S. 180 title substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(1)(d)(4), [Sch. 4 para. 96\(9\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F6** Words in s. 180(1) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(1)(d)(4), [Sch. 4 para. 96\(2\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F7** S. 180(2)(c) repealed (1.9.2012, 12.1.2010) by [Health Act 2009 \(c. 21\)](#), ss. 34, 40(7)(a), [Sch. 6](#); S.I. 2012/1902, art. 2(f)
- F8** S. 180(3)(za) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 205\(2\)](#), 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F9** Words in s. 180(3)(a) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(1)(d)(4), [Sch. 4 para. 96\(3\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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- F10** Words in s. 180(3)(a) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), s. 306(1)(d)(4), **Sch. 4 para. 96(3)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F11** Words in s. 180(3)(b) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), s. 306(1)(d)(4), **Sch. 4 para. 96(4)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F12** Words in s. 180(3)(b) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), s. 306(1)(d)(4), **Sch. 4 para. 96(4)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F13** S. 180(3A) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 205(3), 306(4)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F14** S. 180(6A) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), s. 306(1)(d)(4), **Sch. 4 para. 96(5)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F15** S. 180(10) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(1)(d)(4), **Sch. 4 para. 96(6)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F16** Words in s. 180(11) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), s. 306(1)(d)(4), **Sch. 4 para. 96(7)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F17** S. 180(12) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(1)(d)(4), **Sch. 4 para. 96(8)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

Modifications etc. (not altering text)

- C1** S. 180 modified (temp.) (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 3 para. 8(2)(a)** (with Sch. 3 Pt. 1)

181 Section 180: supplementary

- (1) Regulations under section 180 providing for payments for meeting or contributing towards the cost incurred for the supply of optical appliances or their replacement or repair may also provide as follows.
- (2) They may make provision for such payments not to be made to any person falling within a prescribed description.
- (3) They may make provision for the Secretary of State to give notice as mentioned in subsection (4) to a person to whom such payments have been made ^{F18}....
- (4) Such a notice is notice that no further such payments in respect of the supply, replacement or repair of optical appliances at a particular location or in a particular area, in either case specified in the notice, will be made to him after a date specified in the notice.
- (5) If such a notice is given, no further payments as mentioned in subsection (4) may be made to him after the date specified in the notice, unless the notice is cancelled by the Secretary of State.
- (6) The regulations may make provision conferring on the Secretary of State the right, if he has given a notice by virtue of subsection (3), to apply to the [^{F19}First-tier Tribunal] for a stop order.

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- (7) A stop order is an order that no further such payments may be made (whether by the Secretary of State or by any relevant body) to the person in question in respect of the supply, replacement or repair of optical appliances, wherever the supply, replacement or repair occurred.
- (8) If the regulations make the provision mentioned in subsection (3), they must also make provision conferring prescribed rights of appeal to the [^{F20}First-tier Tribunal] upon the person to whom the notice was given.

^{F21}(9)

Textual Amendments

- F18** Words in s. 181(3) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 97\(2\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F19** Words in s. 181(6) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 124](#) (with Sch. 5)
- F20** Words in s. 181(8) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 124](#) (with Sch. 5)
- F21** S. 181(9) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 97\(3\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Exemptions, etc

182 Remission and repayment of charges

Regulations may provide in relation to prescribed descriptions of person for the remission or repayment of the whole or any part of any charges which would otherwise be payable by virtue of section 172, 176 or 179.

183 Payment of travelling expenses

Regulations may provide in relation to prescribed descriptions of persons—

- [^{F22}(a) for the payment by the Secretary of State [^{F23}, the Board, a clinical commissioning group,]^{F24} ... an NHS trust or an NHS foundation trust, in such cases as may be prescribed, of travelling expenses (including the travelling expenses of a companion) incurred or to be incurred for the purpose of their obtaining—
- (i) any services provided under this Act,
 - ^{F25}(ii)
 - ^{F26}(iii)
- (b) for the reimbursement by [^{F27}the Board,]^{F28} ... [^{F29}or a clinical commissioning group] to an NHS trust or an NHS foundation trust ^{F30} ... of such payments,
- (c) for the reimbursement by [^{F31}the Board,]^{F32} ... [^{F33}or a clinical commissioning group] to an NHS trust and, in such cases as may be prescribed, to a Local Health Board, of payments made by virtue of section 131(a) of the National Health Service (Wales) Act 2006 (c. 42).

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Textual Amendments

- F22** S. 183(a) substituted (1.6.2010) by [The National Health Service \(Reimbursement of the Cost of EEA Treatment\) Regulations 2010 \(S.I. 2010/915\)](#), regs. 1(1), **3**
- F23** Words in s. 183(a) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 98(2)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F24** Words in s. 183(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 98(2)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F25** S. 183(a)(ii) omitted (31.12.2020) by virtue of [The National Health Service \(Cross-Border Healthcare and Miscellaneous Amendments etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/777\)](#), regs. 1(1), **3(g)** (with reg. 15, Sch. 1) (as amended by S.I. 2020/1348, **regs. 10-12**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F26** S. 183(a)(iii) and word omitted (31.12.2020) by virtue of [The Social Security Coordination \(Reciprocal Healthcare\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/776\)](#), regs. 1(1), **3(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F27** Words in s. 183(b) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 98(3)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F28** Words in s. 183(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 98(3)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F29** Words in s. 183(b) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 98(3)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F30** Words in s. 183(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 98(3)(d)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F31** Words in s. 183(c) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 98(4)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F32** Words in s. 183(c) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 98(4)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F33** Words in s. 183(c) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 98(4)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

184 Sections 182 and 183: supplementary

- (1) Descriptions of persons may be prescribed for the purposes of section 182 or 183 by reference to any criterion and, in particular, by reference to any of the following criteria—
- (a) their age,
 - (b) the fact that a prescribed person or a prescribed body accepts them as suffering from a prescribed medical condition,
 - (c) the fact that a prescribed person or a prescribed body accepts that a prescribed medical condition from which they suffer arose in prescribed circumstances,
 - (d) their receipt of benefit in money or in kind under any enactment or their entitlement to receive any such benefit,
 - (e) the receipt of any such benefit by other persons satisfying prescribed conditions or the entitlement of other persons satisfying prescribed conditions to receive such benefits, and
 - (f) the relationship, as calculated in accordance with the regulations by a prescribed person, between their resources and their requirements.
- (2) Regulations under section 182 or 183 may direct how a person's resources and requirements must be calculated and may, in particular, direct that they must be calculated—
- (a) by a method set out in the regulations,

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- (b) by a method described by reference to a method of calculating or estimating income or capital specified in an enactment other than this section or in an instrument made under an Act of Parliament or by reference to such a method but subject to prescribed modifications,
 - (c) by reference to an amount applicable for the purposes of a payment under an Act of Parliament or an instrument made under an Act of Parliament, or
 - (d) by reference to the person's being or having been entitled to payment under an Act of Parliament or an instrument made under an Act of Parliament.
- (3) Regulations under section 182 or 183 which refer to an Act of Parliament or an instrument made under an Act of Parliament may direct that the reference must be construed as a reference to that Act or instrument—
- (a) as it has effect at the time when the regulations are made, or
 - (b) both as it has effect at that time and as amended subsequently.

Other provisions relating to charging

185 Charges for more expensive supplies

- (1) Regulations may provide for the making and recovery of such charges falling within subsection (2) as may be prescribed.
- (2) The charges are charges by the Secretary of State, [^{F34}the Board, a clinical commissioning group, a local authority,]^{F35}... an NHS trust or an NHS foundation trust—
- (a) in respect of the supply of any appliance or vehicle which is, at the request of the person supplied, of a more expensive type than the prescribed type, or
 - (b) in respect of the repair or replacement of any such appliance, or the replacement of any such vehicle, or the taking of any such action in relation to the vehicle as is mentioned in paragraph 10(2) of Schedule 1.

Textual Amendments

- F34** Words in s. 185(2) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 99\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F35** Words in s. 185(2) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 99\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

186 Charges for repairs and replacements in certain cases

- (1) Regulations may provide for the making and recovery of such charges falling within subsection (2) as may be prescribed.
- (2) The charges are charges by the Secretary of State, [^{F36}the Board, a clinical commissioning group, a local authority,]^{F37}... an NHS trust or an NHS foundation trust, in respect of the repair or replacement of any appliance or vehicle, where it is determined in the prescribed manner—
- (a) in any case, that the repair or replacement was necessitated by an act or omission of the person supplied, or

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- (b) in a case where the person supplied was under the age of 16, that the repair or replacement was necessitated by an act or omission, occurring while that person was under that age, of a person having charge of him.

Textual Amendments

- F36** Words in s. 186(2) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 100\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F37** Words in s. 186(2) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 100\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

[^{F38}186A Charges in respect of public health functions

- (1) The Secretary of State may make charges under this subsection in respect of any step taken under section 2A.
- (2) The power conferred by subsection (1) does not apply in respect of the provision of a service or facility to an individual, or the taking of any other step in relation to an individual, for the purpose of protecting the individual's health.
- (3) Charges under subsection (1) may be calculated on such basis as the Secretary of State considers appropriate.
- (4) Regulations may provide for the making and recovery of charges in respect of—
 - (a) the taking of prescribed steps by a local authority under section 2A (by virtue of regulations under section 6C(1)), and
 - (b) the taking of prescribed steps by a local authority under section 2B.
- (5) Regulations under subsection (4) may make provision as to the calculation of charges authorised by the regulations, including provision prescribing the amount or the maximum amount that may be charged.
- (6) Nothing in this section affects any other power conferred by or under this Act to make charges.]

Textual Amendments

- F38** [S. 186A](#) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 50\(1\)](#), 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

187 Charges for designated services or facilities

Regulations may provide for the making and recovery of charges in respect of services or facilities [^{F39}of a kind mentioned in section 3(1)(d) or (e) (whether provided in pursuance of those provisions or any other provision of this Act)].

Textual Amendments

- F39** Words in s. 187 substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 101](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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188 Sums otherwise payable to those providing services

- (1) Subsection (2) applies to regulations under—
- (a) section 172 (charges for drugs, medicines or appliances, or pharmaceutical service),
 - (b) section 179 (charges for optical appliances),
 - (c) section 185 (charges for more expensive supplies), or
 - (d) section 186 (charges for repairs and replacements in certain cases),
- which provide for the making and recovery of charges in respect of any services.
- (2) The regulations may provide for the sums which would otherwise be payable by [^{F40}the Board or a clinical commissioning group]^{F41} ... or Special Health Authority to the persons by whom the services are provided, to be reduced by the amount of the charges authorised by the regulations in respect of the services.

Textual Amendments

F40 Words in s. 188(2) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 102\(a\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)

F41 Words in s. 188(2) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 102\(b\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)

189 Hospital accommodation on part payment

- (1) The Secretary of State—
- (a) may authorise accommodation to be made available for patients to such extent as he may determine, and
 - (b) may recover such charges as he may determine in respect of such accommodation and calculate them on any basis that he considers to be the appropriate commercial basis.
- (2) Accommodation means—
- (a) accommodation in single rooms or small wards which is not needed by any patient on medical grounds,
 - (b) accommodation at any health service hospital or group of hospitals, or a hospital in which patients are treated under arrangements made by virtue of section 12, or at the health service hospitals in a particular area or a hospital in which patients are so treated.
- (3) References in subsection (2) to a health service hospital include references to such a hospital within the meaning of section 206 of the National Health Service (Wales) Act 2006 (c. 42), but do not include references to a hospital vested in an NHS trust or an NHS foundation trust.

190 Expenses payable by employed patients

- (1) The Secretary of State may require any person—
- (a) who is a resident patient for whom the Secretary of State provides services under this Act, and
 - (b) who is absent during the day from the hospital where he is a patient for the purpose of engaging in remunerative employment,

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to pay such part of the cost of his maintenance in the hospital and any incidental cost as may seem reasonable to the Secretary of State having regard to the amount of that person's remuneration.

- (2) The Secretary of State may recover the amount required under subsection (1).

Recovery, etc

191 Recovery of charges

- (1) All charges recoverable under this Act by—
- (a) the Secretary of State,
 - (b) a local social services authority, or
 - (c) any body established under this Act,
- may be recovered summarily as a civil debt (but this does not affect any other method of recovery).
- (2) If any person, for the purpose of evading the payment of any charge under this Act, or of reducing the amount of any such charge—
- (a) knowingly makes any false statement or false representation, or
 - (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,
- the charge or the balance of the charge, may be recovered from him by the person by whom the cost of the service in question was defrayed.

192 Recovery of charges and payments in relation to goods and services

- (1) Where goods or services to which this section applies are provided and—
- (a) any charge payable by any person under this Act in respect of the provision of the goods or services is reduced, remitted or repaid, but that person is not entitled to the reduction, remission or repayment, or
 - (b) any payment under this Act is made to, or for the benefit of, any person in respect of the cost of obtaining the goods or services, but that person is not entitled to, or to the benefit of, the payment,
- the amount mentioned in subsection (2) is recoverable summarily as a civil debt from the person in question by the responsible authority.
- (2) That amount—
- (a) in a case within subsection (1)(a), is the amount of the charge or (where it has been reduced) reduction,
 - (b) in a case within subsection (1)(b), is the amount of the payment.
- (3) Where two or more persons are liable under section 191(1) or this section to pay an amount in respect of the same charge or payment, those persons are jointly and severally liable.
- (4) For the purposes of this section, the circumstances in which a person is treated as not entitled to a reduction, remission or repayment of a charge, or to (or to the benefit of) a payment, include in particular those in which it is received (wholly or partly)—

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- (a) on the ground that he or another is a person of a particular description, where the person in question is not of that description,
 - (b) on the ground that he or another holds a particular certificate, when the person in question does not hold such a certificate or does hold such a certificate but is not entitled to it,
 - (c) on the ground that he or another has made a particular statement, when the person in question has not made such a statement or the statement made by him is false.
- (5) In this section and section 193, “responsible authority” means—
- (a) in relation to the recovery of any charge under section 191(1) in respect of the provision of goods or services to which this section applies, the person by whom the charge is recoverable,
 - (b) in relation to the recovery by virtue of this section of the whole or part of the amount of any such charge, the person by whom the charge would have been recoverable,
 - (c) in a case within subsection (1)(b), the person who made the payment.
- (6) But the Secretary of State may by directions provide for—
- (a) the functions of any responsible authority of recovering any charges under this Act in respect of the provision of goods or services to which this section applies,
 - (b) the functions of any responsible authority under this section and section 193, to be exercised on behalf of the authority by another health service body.
- (7) This section applies to the following goods and services—
- (a) dental treatment and appliances provided in pursuance of this Act,
 - (b) drugs and medicines provided in pursuance of this Act,
 - (c) sight tests,
 - (d) optical appliances,
 - (e) any other appliances provided in pursuance of this Act.
- (8) “Health service body” means a body which is a health service body for the purposes of section 9.

193 Penalties relating to charges

- (1) Regulations may provide that, where a person fails to pay—
- (a) any amount recoverable from him under section 191(1) in respect of the provision of goods or services to which section 192 applies, or
 - (b) any amount recoverable from him under section 192,
- a notice (referred to in this section as a penalty notice) may be served on the person by the responsible authority.
- (2) A penalty notice is a notice requiring the person on whom it is served to pay the amount to the authority within a prescribed period, together with a charge (referred to in this section as a penalty charge) of an amount determined in accordance with the regulations.
- (3) The regulations may not provide for the amount of the penalty charge to exceed whichever is the smaller of—

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- (a) £100,
 - (b) the amount referred to in subsection (1)(a) or (b) multiplied by 5.
- (4) The Secretary of State may by order provide for subsection (3) to have effect as if, for the sum specified in paragraph (a) or the multiplier specified in paragraph (b) (including that sum or multiplier as substituted by a previous order), there were substituted a sum or multiplier specified in the order.
- (5) Regulations may provide that, if a person fails to pay the amount he is required to pay under a penalty notice within the period in question, he must also pay to the responsible authority by way of penalty a further sum determined in accordance with the regulations.
- (6) The further sum must not exceed 50 per cent of the amount of the penalty charge.
- (7) Any sum payable under the regulations (including the amount referred to in subsection (1)(a) or (b)) may be recovered by the responsible authority summarily as a civil debt.
- (8) But a person is not liable by virtue of a penalty notice—
- (a) to pay at any time so much of any amount referred to in subsection (1)(a) or (b) for which he is jointly and severally liable with another as at that time has been paid, or ordered by a court to be paid, by that other, or
 - (b) to a penalty charge, or a further sum by way of penalty, if he shows that he did not act wrongfully, or with any lack of care, in respect of the charge or payment in question.

194 Offences relating to charges

- (1) A person is guilty of an offence if he does any act mentioned in subsection (2) with a view to securing for himself or another—
- (a) the evasion of the whole or part of any charge under this Act in respect of the provision of goods or services to which section 192 applies,
 - (b) the reduction, remission or repayment of any such charge, where he or the other is not entitled to the reduction, remission or repayment,
 - (c) a payment under this Act (whether to, or for the benefit of, himself or the other) in respect of the cost of obtaining such goods or services, where he or the other is not entitled to, or to the benefit of, the payment.
- (2) The acts referred to in subsection (1) are—
- (a) knowingly making, or causing or knowingly allowing another to make, a false statement or representation, or
 - (b) in the case of any document or information which he knows to be false in a material particular, producing or providing it or causing or knowingly allowing another to produce or provide it.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) A person^{F42}... may conduct any proceedings under this section before a magistrates' court if he is authorised to do so by the Secretary of State.
- (5) Proceedings for an offence under this section may be begun within—

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- (a) the period of three months beginning with the date on which evidence, sufficient in the opinion of the Secretary of State to justify a prosecution for the offence, comes to his knowledge, or
 - (b) the period of 12 months beginning with the commission of the offence.
- (6) For the purposes of subsection (5), a certificate purporting to be signed by or on behalf of the Secretary of State as to the date on which such evidence as is mentioned in paragraph (a) of that subsection came to his knowledge, is conclusive evidence of that date.
- (7) Where a person is convicted of an offence under this section in respect of any charge or payment under this Act, he is not liable in respect of the charge or payment to pay any penalty charge or further sum by way of penalty which would otherwise be recoverable from him under section 193.
- (8) Where a person pays any penalty charge, or further charge by way of penalty, recoverable under section 193 in respect of any charge or payment under this Act, he must not be convicted of an offence under this section in respect of the charge or payment.
- (9) Subsection (4) of section 192 applies for the purposes of this section as it applies for the purposes of that.

Textual Amendments

F42 Words in s. 194(4) repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\), s. 211\(2\), Sch. 21 para. 154, Sch. 23](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250, art. 2\(h\)\(i\)\(xii\)](#)

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